

MEMORY OF NATIONS

Democratic Transition Guide

[The Polish Experience]



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TRANSFORMATION OF THE POLITICAL SYSTEM (1988–1991)

FRANCISZEK DĄBROWSKI

INTRODUCTION

The democratic transition in Poland ended a 40-year long communist dictatorship. The most important factors of the political change were economic crisis, popular rejection of the communist dictatorship, and withdrawal of Soviet support for the ruling communist party.

The country's communist-controlled economy was inefficient, ideologically biased, and was generally directed at fulfilling the military obligations of the Soviet overlord rather than the needs of nation. The so called "economy of planned deficiency" suppressed private enterprises and property. Foreign trade structure drained the country of the most needed resources. The continuous austerity of life periodically worsened, and two such low points marked the last two decades of dictatorship in the years 1976–1983 and 1987–1988. Foreign debt was an additional burden for the economy.

The *Solidarność* trade union, established in the summer of 1980, was a major, peaceful, anti-regime organization (8 million members in a nation of 37-million). The movement was mostly crushed by martial law declared by the militarized communist government on 13th December 1981. Repression followed to suppress the trade union and to break its structures; however, the potential resistance in Polish society was still significant.

The Soviet Union in the '80s was on the verge of collapse, caused by economic crisis and military competition with the West. By the end of the decade USSR was not able to efficiently control and support its satellite states, Poland included. Gorbachev's solution was to rearrange the policies in satellite countries to maintain pro-Soviet forms of government with minimal engagement; this meant that USSR was unable to directly control its local proxies, and left them to manage themselves.

All of the abovementioned factors combined to contribute to the start of the political transition in Poland.

POLITICAL SYSTEM AT THE DAWN OF TRANSITION

THE LEGAL FRAMEWORK OF THE POLITICAL SYSTEM

The communist dictatorship in Poland was the result of the Soviet occupation which began in 1944. The basic laws concerning the form of government were formally democratic, but some features of the legal system were designed to keep the communist party at the helm of state. The 1952 constitution stated that a leading role in the country's rule belonged to the working class; the other clause stated, that Polish People's Republic (Polska Rzeczpospolita Ludowa, PRL) is to be "organized as planned economy"; "contains, disowns and liquidates social classes living on the expense of workers and peasants". Formally the 1952 constitution shaped the government's as a democratic republic, where the highest powers were allocated to parliament, with a separate

judiciary, and executive power. Amendments to the 1952 constitution in 1976 formally acknowledged the actual state of affairs; that the PRL is a socialist state, the leading role in the state's life belongs to the communist party, PZPR, and the country's social and political life is organized in the syndicate body called the Front Jedności Narodu (FJN, "Front of the Nation's unity"), in fact PZPR-controlled facade organization. The 1976 amendments also embedded the alliance with Soviet Union in the constitution. The electoral law did not allow registering candidates from outside of the FJN. The parties or movements not under the control of the PZPR were not allowed to register and were considered illegitimate. From 1947, all of the elections were rigged.

POSITION OF THE COMMUNIST PARTY BEFORE THE REGIME CHANGE

The country's communist party, Polska Zjednoczona Partia Robotnicza (PZPR, "Polish United Workers' Party") was the sole ruler of state. The party's apparatus (central and local committees) effectively controlled the government, local, social and industrial institutions and other bodies. The legally allowed political parties (Stronnictwo Demokratyczne, SD, and Zjednoczone Stronnictwo Ludowe, ZSL), state-organized and controlled trade unions (Ogólnopolskie Porozumienie Związków Zawodowych, OPZZ) and some minor organizations were in fact subordinated as members of FJN and treated as puppets for the "national unity".

NUMBER OF POLITICAL ENTITIES IN 1989

After the 1981–1982 PZPR membership overview (when a significant number of members resigned or were expelled), approximately 2 million members were counted. Approximately 120 thousand members were counted for the SD. Approximately 300 thousand were counted for the ZSL. Approximately 4 million members were counted for OPZZ, the state-acknowledged trade union network.

In the years 1988–1989, "*Solidarność*", in the process of re-establishment, the member's count did not reach that of 1980–1981 (more than 9 million of members). Several hundred "*Solidarność*" committees were acting openly (although not legally) in 1988. The re-registration of its committees were allowed on April 17, 1989, for the workers' trade union and on April 20, 1989 for the farmers' trade union. The number of "*Solidarność*" members in the 1989 may be estimated at more than 2 million.

CONTROL OF THE POWER STRUCTURE

The communist constitution did set up a number of judiciary and control bodies: the control chamber (Najwyższa Izba Kontroli, NIK, since 1957), the administrative court (Najwyższy Sąd Administracyjny, NSA, since 1980), the constitutional court (Trybunał Konstytucyjny, TK, since 1982), the tribunal d'état (Trybunał Stanu, TS, since 1982), the ombudsman (Rzecznik

Praw Obywatelskich, RPO, since 1987). In fact, those bodies did not contribute to any effective judiciary or administrative control over dictatorship activities. The abovementioned bodies were only a simulacra of the republican institutions, and served as a façade for party decisions, providing formal cover for the twists of party's policy and as internal system regulators.

Prior to the 1989 transition, the parliament, the judiciary, state controlled government bodies, and local governing bodies were in fact dependent on the communist party structures, and acted as its executives. Units of the central committee of the communist party covered the most important areas of governance, and were the real centres of power. In every institution, an organization or office existed a party committee that effectively controlled the dealings of the unit. The system of "nomenklatura" (nomination of leadership of the organization reserved for the party's decision) was at the core of the personal policy in pre-1989 period.

DEMOCRATIC TRANSITION IN POLAND 1989–1991

REACTION OF THE POLITICAL SYSTEM TO THE CHANGES AND THE TRANSFORMATION OF THE COMMUNIST PARTY

The economic crisis caused by the inefficient communist governance was worsened in 1987 and 1988. This caused two waves of strikes in the spring and summer of 1988, demanding the restoration of the "Solidarność" trade union. On the 25th of August, 1988, at the high point of the second wave of strikes, Lech Wałęsa issued a joint statement from opposition leaders promising to stop the strike action, if the authorities would start talks concerning the free trade union movement. The reaction of the communist leadership was slightly different than in 1981; although the state apparatus was prepared to use force again, the minister of internal affairs, Czesław Kiszczak (head of SB), publicly proposed talks with the opposition on 26th August 1988. The extraordinary meeting of central committee of communist party also agreed to start negotiations. At the start of the talks with the opposition, the communist party simultaneously tried to rearrange itself. The central committee was reshuffled and reorganized, the then head of government Zbigniew Messner resigned, and was replaced by Mieczysław Rakowski. Jaruzelski had the support of Gorbachev, who visited Poland in July 1988 during meeting of heads of Warsaw Pact states.

The initial talks were held in secrecy in September 1988 and next months, as a preliminary step to the wider negotiations held in public.

The public negotiations, the so-called "Okrągły Stół" (Round Table) was held from 6th February to 5th April 1989. The participants were assembled with three "sides of negotiations": the "party and coalition side" (representing the communist party and the minor organizations of the ruling block), the "opposition-Solidarność side" (representing the democratic opposition), and "trade union side" (representing the party-controlled trade union OPZZ). The talks of the three main teams were about political reform, economic reform, social matters, and trade union matters. The numerous "sub tablets" and working teams were established to discuss matters of lawfare reform, media, associations and local government, health service, education and science, agriculture, mining, youth, housing policy, and ecology. The most important agreements concerned parliamentary elections, and freedom

of associations and press. The communist party agreed to elect a new parliament with special provisions concerning the division of seats: 65 % of seats in the lower chamber of parliament were reserved for the candidates of communist party and its minor allies. 35 % of seats in the lower chamber were allocated for "party-less candidates", or free open competition. This solution formally guaranteed the dominance of the communist party. The agreements were signed on the 5th of April 1989. The relevant acts concerning the Round Table core agreements were passed on the 7th of April 1989. The date of election was appointed at the 4th of June 1989. The 4th of June 1989 election was the beginning of the real transition. The landslide victory of the Solidarność candidates (the majority of votes going to candidates of the lower parliamentary chamber, and 99 of 100 seats in upper chamber taken), had a shock effect on the ruling party. The ruling block succeeded in electing former dictator Wojciech Jaruzelski as president of PRL, but the bid to designate his right-hand man Czesław Kiszczak to the seat of prime minister failed. In August of 1989, the solidarity of the ruling block was finally broken, the representatives of the minor allies of PZPR, SD and ZSL agreed to form a government together with Solidarność. On the 24th of August 1989, the new, non-communist Prime Minister, Tadeusz Mazowiecki, was appointed by parliament. Only two seats in government were, for the time being, reserved for the former rulers: the ministry of national defence, Florian Siwicki and ministry of internal affairs, Czesław Kiszczak, the latter in charge of the secret service, SB. The decomposition of former ruling party deepened, and during its 11th general meeting on 28th January 1990, the party dismissed itself. The dismissal of communist party, and the subsequent formation of next-generation post-communist parties had a detrimental effect on the position of communist ministers and president. Kiszczak and Siwicki were finally dismissed in July 1990. The presidential term of Jaruzelski was shortened by a parliamentary act on the 27th of September 1990; the act proclaimed the general election of president. The presidential election had two rounds, and on the 9th of December 1990, Lech Wałęsa won. The counter-candidate, acting Prime Minister Tadeusz Mazowiecki, resigned from the post, and the new government of Jan Bielecki was formed.

The disintegration of the PZPR and its apparatus resulted in the foundation of several successor parties and movements. Formed in 1990, Socjaldemokracja RP (SdRP), then the coalition Sojusz Lewicy Demokratycznej (SLD) were the most important of the post-communist movements, and until 2015 remained major parliamentary parties, in 1993–1997 and 2000–2005 Sojusz Lewicy Demokratycznej (SLD) was the ruling party. The ZSL adopted the name "Polskie Stronnictwo Ludowe" after the anti-communist peasant party dismissed in 1949 and absorbed some independent peasant activists; PSL is still an important political player in Poland. SD's continued its existence without successes: the party never achieved more than several parliamentary seats.

The matter of parliament's reliability as representative body in the new situation appeared to be urgent; the parliamentary term was shortened, and a new general election was announced in the fall of 1991. The new parliament was elected without previous obsolete limitations.

LEGAL FRAMEWORK OF THE CHANGES

The act altering the constitution passed on 7th April 1989, formed an upper parliamentary chamber, the Senat (Senate), and

the institution of State's President, dismissing the former collective head of state office Rada Państwa, State's Council. The Electoral laws on parliamentary elections passed also on the 7th of April 1989, secured the Round Table's agreement concerning the proportions of parliamentary seats allocated to ruling block's candidates and those given to free competition. At least 10 % of seats were guaranteed to the so-called "country's list" (i.e. voted in all constituencies), reserved for candidates of the ruling block. The upper chamber election had no such limitations. Also on the 7th of April 1989, other acts concerning the most important elements of Round Table's agreements were passed – i.e. the act on societies, allowing free associating, concerning political activities, and acts on trade unions, and amendments to the labour code allowing free workers' and peasants' trade unions.

Laws dismissing the coercive socialist economy were passed between 1988 and 1989, for example, on economic activities allowing free trade and enterprises on the 23rd of December 1988, banking law on the 31st of January 1989, laws concerning foreign currencies trade on the 15th of March 1989. and laws concerning the stock exchange were passed on the 22nd of March 1991.

The freedom of movement was empowered by the government's decree on the 7th of December 1988 concerning the issue of passports; the communist passport laws were finally replaced by the parliamentary act of 29th of November 1990.

The surprising outcome of the 4th of June 1989 elections which showed the popular denial of voting for regime candidates and the "country's list" resulted in passing of the 12th of June 1989 decree allowing a new vote in the constituencies where parliamentary seats guaranteed the ruling block candidates were not taken.

The new election code was passed by parliamentary act on the 10th of May 1991, abolished previous guarantees for the former ruling party and their allies, and established fully democratic rules.

An act on the 8th of March 1990 concerning local government ended the existence of the communist-controlled local administration and established democratic local governing bodies.

An act on the 23rd of November 1989 abolished the office for the religious affairs, ending the existence of a state body controlling religious communities.

An act on the 11th of April 1990 abolished the censorship office and amended the press code to support freedom of press.

An act on the 28th of July 1990 on political parties finally allowed the registration of political parties (instead of previous regulations concerning associations). An act on the 23rd of May 1991 amended the former law concerning the matters of trade unions.

The 29th December 1989 adjustment to the constitution changed the name of state from PRL to Rzeczpospolita Polska (RP, Republic of Poland), annulled all of former constitutional provisions concerning the socialist character of state and the role of communist party, and added fundamental civil rights provisions. The amended constitution was the basic law in Poland until the voting for the new constitution in 1997.

ESTABLISHMENT OF THE COMPETITIVE POLITICAL SYSTEM

The provisions of the Round Table agreements were not meant to establish democratic rule. As Jaruzelski allegedly said, the agreements left the "control packet" of power in the hands of former

rulers. However, the political process led to the alienation and demise of the PZPR, and as a result, the deeper changes which enabled the transition to a democratic republic and fully democratic elections in 1991. In the course of the "contract parliament" term, new laws concerning basic civil rights, free market, and abolishing coercive institutions were passed. The first free parliamentary elections in the fall of 1991 marked the end of the first, most important, period of democratic transition in Poland.

LESSONS LEARNT

The Polish transition, after 1989, is seen as a composite of successful changes and unfulfilled wishes.

The conversion from the communist-designed "rationed revolution" to a real democratic transition was the major positive outcome of the Polish experience of 1989. The PZPR plan was to establish the half-dictatorship, with the "control packet" still in the hands of communists, with limited (and possibly the most troublesome) segments of power commissioned to the representatives of nation. The disintegration of the PZPR parliamentary block resulted in real democratic change, and opened the way to a far more advanced reform of politics, economics, and foreign relations in Poland.

The peaceful transition was seen as a value itself, especially in comparison with the events of the Rumanian revolution. The potential reaction of the army and the security services was seen as a possible significant threat to the transition. The reluctant stand of Tadeusz Mazowiecki's government towards the eventual, untimely, settlements of the security services affairs, the liquidation of communist party and its assets, and even movement towards the fully democratic elections are seen as a hesitancy resulting from the assumed incertitude of the political position and the overestimated strength of the communist party and its apparatus. The peaceful change was a smooth way to adapt the former regime functionaries to the new situation. The initial lack of any effective transitional justice, the massive fraud schemes called "endowment of nomenklatura", and the many other flaws of transition were seen as a price for democracy, or as the cost of the power swap negotiated during the Magdalena and Okrągły Stół talks. Mazowiecki's "thick line" policy seemed to be a working option for the transitional government until the moment of visible decomposition of the communist party and the subsequent dismissal or decomposition of its apparatus and ruling schemes. The eventual danger of reaction by the post-communist structures appeared to be overrated. However, the opportunity for deepening changes appeared, it was never taken serious advantage of, and served only as an excuse for the Wałęsa's "acceleration" campaign, and the subsequent divisions in the "Solidarność" movement.

So-called "The Zero Option", the general purge of communist functionaries from the state apparatus or at least from significant segments of it, was never carried out. Also, the key to the eventual transitional justice, the barring of communist personalities and organisations from public posts, was never performed. The lack of general solutions concerning the settlement of communist crimes resulted i.a. in the lack of clear and just procedures for property restitution. Nevertheless, the transition of ex-communists to democratic public life, although flawed and marked by corruption, appeared peaceful and did not result in major threats to the republic, for example, there was no coup-d'états.

One of the results of not barring communists from public life was the relatively quick return to power of post-communist parties in 1993, and the constant impediments in dealing with the past, especially concerning access to the archives of the former regime. The integrity and efficiency of the state was seriously impaired by retaining former regime men in governing and judicial bodies.

The legal system in post 1989 Poland might be described as corrected continuity of the communist legal system. The laws were amended step-by-step to adjust them to the standards of modern rule of law and democracy; nevertheless, the status of laws passed in the period 1944–1990 was only partially challenged. The legitimacy of the communist state was declared nonexistent, but the legal consequence of communist lawfare was never summarily questioned. The effect was the permanence of communist legal dealings that were to be challenged in separate legal actions.

RECOMMENDATIONS

Recommendations concerning political transition are highly political in nature and cannot be applied, without adjustment, to local terms and potential of the national and social community. The objective of transition is to establish a stable, lawful, and democratic republic, with fair, independent, open justice system.

Any delays in settlements may cause irreversibility for the injustices committed by the former regime.

Legal system: The legal system of the former regime should be taken under scrutiny to restore the rule of law and to mend the losses suffered by citizens under dictatorship as quick and profoundly as possible. The legitimacy of regime laws cannot be recognized automatically or without examination of their consequences.

Sanitization of the political and governance system: The integrity of the state cannot be undermined by the admittance of former regime members and organizations to public life. The regime organizations, parties, coercive institutions should be abolished and their assets seized by state. The former regime functionaries and collaborators are not fit to serve a democratic republic; the proper procedures (following the “Euration” or “Denazification” proceedings) of assigning criteria and level of responsibility, and eventual punishment or limitations of personal rights should follow open judicial procedure.

Settlement of the regime crimes: The crimes of the regime should be prosecuted without procedural or political reservations. The legal system should guarantee the rights of the victims of the regime, and restitution of property and other lost entitlements first, as far as it is possible in the common interest.

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DISMANTLING THE STATE SECURITY APPARATUS (1989–1991)

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INTRODUCTION

POSITION AND STRUCTURE OF THE STATE SECURITY APPARATUS BEFORE THE TRANSFORMATION

The communist security apparatus in communist Poland consisted of several institutions and organisations of different competences and affiliations.

Służba Bezpieczeństwa (SB, security service) (1956–1990) – was the main security force of the communist regime in Poland, acting as a security and political police unit, disguised as a part of **Milicja Obywatelska** (MO, see below), a criminal and public order police, with central units based in the Ministry of Internal Affairs (Ministerstwo Spraw Wewnętrznych, MSW). The SB's local units were formally part of relevant districts and local MO commands (since 1983 part of the district and local "Offices of Internal Affairs"). SB continued the activities of its predecessor, **Urząd Bezpieczeństwa** (UB, security office, 1944–1956, central units: **Resort Bezpieczeństwa Publicznego**, RBP, public security department, 1944; **Ministerstwo Bezpieczeństwa Publicznego**, MBP, ministry of public security, 1945–1954; **Komitet ds. Bezpieczeństwa Publicznego**, Kds.BP, Committee for public security, 1954–1956).

In 1989, several departments in the MSW constituted the structure of the SB, or were manned by SB functionaries:

- **Biuro "A"** (Biuro Szyfrów): encryption and communications unit
- **Biuro "B"**: surveillance unit
- **Biuro "C"**: registry and archive
- **Biuro "W"**: post control unit
- **Biuro Historyczne**: historical unit
- **Biuro Ochrony Rządu**: personal protection unit
- **Biuro Paszportów**: pass control unit
- **Biuro RKW**: signals counterintelligence unit
- **Biuro Studiów** (formed 1982): special unit in charge of invigilation of prominent former Solidarity members and underground organisations
- **Biuro Śledcze**: investigation unit
- **Department I MSW**: foreign intelligence unit. The main tasks of Department I were: classical politic and economic intelligence, penetration and disintegration of Polish diaspora in the Western countries, scientific and industrial espionage.
- **Department II MSW**: counterintelligence unit. The main tasks of Department II were surveillance of non-communist diplomatic personal in Poland, classical counterespionage, control of relations between Polish citizens and foreigners.
- **Department III MSW**: security and political police unit formally tasked with the "fight against antisocialist activity in the social superstructure".
- **Department IV MSW** (formed 1962): "Church affairs" unit. The main tasks of Department IV were surveillance, control and disintegration of activities of Polish Roman Catholic

Church (seen as one of the major enemies of socialist state), and to far lesser extent, other religious communities.

- **Department V MSW** (formed 1979 as Department III-A MSW): unit in charge of invigilation of independent trade unions.
- **Department VI MSW** (formed 1985): unit in charge of control of agriculture, food processing industry, and forestry.
- **Department PESEL**: unit in charge of the electronic system of population records.
- **Department Społeczno-Administracyjny**: unit in charge of the control of legally acting associations and organisations.
- **Department Techniki** (former Biuro "T"): technical measures of surveillance unit (eavesdropping, phone tapping, photo, and video surveillance)
- **Gabinet Ministra**: cabinet of minister of internal affairs, staff and analysis unit
- **Główny Inspektorat Ministra**: main inspectorate of minister of internal affairs (control of operative units)
- **Zarząd Ochrony Funkcjonariuszy** (formed 1985): internal disciplinary and control unit
- **Zespół MSW**: analysis of operative information unit

Departments I–VI and **Biuro Studiów MSW** (and subordinate local units) were the main operatives of units of the SB, the "A", "B", "C", "T", "W", and the **RKW** units were auxiliary and operative-technical support.

Milicja Obywatelska (MO, "citizen guard"): was a criminal and public order police. The headquarters of MO **Komenda Główna MO** (KGMO), since 1954, was one of the central units of MSW. Formed in 1944 by the communist government, the MO was a public law and order enforcement agency, with separate central and local units, but formally subordinated to the security police HQ (RBP 1944, MBP 1945–1954). After the dismissal of the MBP in 1954, the MO was subordinated to the newly formed MSW. The reorganisation of the security apparatus in 1956 saw the MO as part of the MSW, together with SB, KBW, WOP (see below) and some civilian administration. Although generally tasked with matters of criminal investigations and public order, the MO was on the first line of duty when containing riots or other unwanted activity was required. The special riot police units, the **ZOMO** (**Z**motoryzowane **O**dwoły **M**O, the MO's "motorized reserve", formed in 1957) gained notoriety for its brutal actions against political demonstrations.

Ochotnicza Rezerwa Milicji Obywatelskiej (ORMO, MO's "volunteer reserve"): formed in 1946, acting as an auxiliary "volunteer" force for the MO, especially for the containment of riots, and social discontent.

Wojskowa Służba Wewnętrzna (WSW, "internal military service"): counterintelligence and security unit of the military (est. 1957, successor of the **Główny Zarząd Informacji**, GZI, the main directorate of intelligence), responsible for containing unwanted political activities in the army.

Zarząd II Sztabu Generalnego Wojska Polskiego (Z II SG WP, 2nd Directorate of the General Staff of the Armed Forces):

military foreign intelligence (est. 1952, as the successor of Oddział II SG WP).

Wojska Ochrony Pogranicza (WOP): border protection troops, formed in 1945, the main force responsible for the securing of the state frontier; its “reconnaissance unit”, **Zwiad WOP**, was in charge of operative activities in the border zone.

Nadwiślańskie Jednostki Wojskowe (NJW MSW, “Vistulan Military Units”): counterinsurgency and MSW’s protection troops, successor of the reorganised 1965 counterinsurgency corps **Korpus Bezpieczeństwa Wewnętrznego (KBW,** “internal security corps”).

Wojskowa Służba Wewnętrzna Jednostek Wojskowych MSW (WSW JW MSW, “military internal service of the MSW’s troops”): counterintelligence and security unit of the WOP and the NJW (till 1965 WOP and KBW).

Główny Urząd Kontroli Prasy, Publikacji i Widowisk (GUKPPiW): censorship office.

Urząd do spraw Wyznań (Uds.W, Office for Affairs of Religious Nominations): office responsible for legal and political contacts with churches and religious communities (primarily with the Roman Catholic Church).

Although not a security or law enforcement agency, the **Ministerstwo Spraw Zagranicznych (MSZ,** Ministry of Foreign Affairs) was one of the main “cover institutions” for the foreign intelligence unit of the MSW, Department I. Stations of foreign intelligence were placed in embassies and consulates, the agents and officers of the MSW had a great number of posts in the ministry. The other central government body, the **Ministerstwo Handlu Zagranicznego (MHZ,** Ministry of Foreign Trade) was an office supervising the trade missions abroad: another important “cover institution”.

NUMBER OF MEMBERS: THE SERVICE APPARATUS AND SECRET COLLABORATORS

In February of 1990 the SB counted 12,400 functionaries in local branches (in 1984, 18,400). On the 31st of December 1989, the central units of the SB counted more than 6,200 men (on the 31st of December 1988, more than 7,100 men). It is estimated that in the summer of 1989, the SB counted 24 thousand functionaries.

The number of SB informants (“secret collaborators”, TW) since 1981 constantly soared, and in 1988 reached approximately 98 thousand; considering that number of unregistered sources is estimated to be approximately 15 thousand, the whole number could have significantly exceeded 100 thousand. The count sank acutely in 1989, due to the the SB’s response to political transformation; informants and agents were withdrawn from activities, their entries were also withdrawn from the registry.

In 1990, the military secret services, after the fusion of military foreign intelligence (Zarząd II SG LWP) with the internal military service (WSW), counted 496 officers and employees.

The operative assets of military foreign intelligence in 1989–1990 can only be estimated after the number of sources in 1985. The Zarząd II SG LWP had 494 informants in the country with 366 auxiliary sources (couriers, connection men, contact addresses), and 156 sources abroad.

The number of collaborators of the military secret service (WSW) is estimated to be 10 thousand men; it should be noted, that approximately 10 % of collaborators were so-called NP, “nieoficjalny pracownik”, “unofficial employee” (officers and

NCOs secretly tasked with operative work, mainly running of minor informants). It should be also noted, that although the total number of informants and NPs of the WSW was rather stable (soaring in the ’80s), the constant flow of conscripts to the army and the release of reservists caused the need for permanent recruitment of new informants in the ranks. The informants released from the army were withdrawn from the active network of the WSW, while new informants were recruited; there was a constant flow of informants (it should be noted that in ’80 the total number of WSW informants soared, i.e. the recruitment of new informants was higher than withdrawal of released). The data concerning released informants were handed to the SB, and some were “re-recruited” in civilian life.

The censorship office employed more than 400 people in 1989; this institution did not run networks of informants or collaborators.

POWERS OF THE SECURITY APPARATUS

In the 1980s, the powers of SB were partially embedded in the legal system; an act on the 14th of July 1983 concerning the office of the minister of internal affairs (MSW) tasked the SB and the MO with “protection of state security and public order”. The SB (as well as the MO) was entitled to conduct the operative, investigative, administrative, and legal proceedings. The other source of legal power of the SB was the criminal proceedings code; the SB, acting as a part of the MO, was entitled to conduct investigative activities on behalf of the public prosecution office (formally, only when ordered, but practically it never happened; political or state interest cases were rarely or never investigated by the prosecution office itself). The 1983 act of office of the MSW and the criminal proceedings code entitled the MO and SB men to conduct arrests and searches and to use the direct duress (use of fire weapons included) to “enforce the public order” or in the presumption of a crime. The activities of the foreign intelligence branch of the SB (as well as military foreign intelligence) were not legally based.

The activities of the military security services were only partially legally based on military criminal proceedings code (and partially the act on border protection), enabling the WSW and WOP to conduct investigative proceedings.

The operative and auxiliary activities of the security services were subject to internal regulations. The vast number of regulations concerned matters of recruitment, use and rewarding operative sources (informants, agents, other categories of contacts), terms, rules and aims of operative proceedings, the terms of registration proceedings, use of information gathered in the registry, terms of conducting surveillance, setting up wiretapping and eavesdropping, post control operative proceedings and use of the materials gathered, passport control proceedings. The number of methods used by the security services included the use of blackmail, “compromising material”, during the recruitment of informants, tapping of phones and flats, post control, covert entries, was in fact illegal, but authorized by superiors of functionaries involved without any judicial or independent review.

The 1956 decree on border protection was the legal basis for the security enforcement activities of border protection troops (WOP).

The censorship office’s activities were based on the 1981 act on censorship (following the 1946 decree). The act demanded compulsory presenting all text and images before publishing,

exhibiting or performing, and entitled the censorship office to prevent the publication of materials “claiming independence or territorial integrity” of the state, “encouraging the overthrow or the denigration” of the state’s rule, “threatening the constitutional basics of the state’s foreign policy and its alliances”, containing “war propaganda”, disclosing official secrets, “encouraging crime”, disclosing details of investigations and court proceedings held in secret, threatening “religious feelings and the feelings of people of no religion”, spreading “national and racial hatred” and “noxious contents”, that is, encouraging alcoholism, narcotics addiction, cruelty, and pornography. Actually, all of the provisions were quite formal, and the censorship banned the publication or disclosure of materials of any unwanted character (primarily political and religious) due to the instructions obtained from the communist party leadership.

COMMUNIST SECRET SERVICES IN TRANSITION 1989–1991

REACTION TO POLITICAL CHANGES

The reaction of the communist secret services in Poland to the transformation of political system had three parallel layers: the staged reorganisation, the mass weeding of operative documents and archives, and the influencing of the political changes to control extra-parliamentary movements.

Existing paperwork hints, that during the weeks after the 4th of June election the SB gathered information on “opposition members of parliament”. It clearly suggests that the SB leadership initially attempted to gain influence on the Solidarity members in parliament. The failure of the parliamentary bid to establish Czesław Kiszczak as prime minister, and the subsequent decomposition of the post-communist parliamentary coalition led the SB to a reaction concerning its own structure; disposing of compromising materials, securing operative assets (functionaries and informants), and disguising its own structure as “apolitical state security guards”.

FORMS OF TRANSFORMATION OF THE SECURITY APPARATUS

The impact of political changes in the summer and fall of 1989 made the the SB leadership uncomfortable about their perspectives. The answer was to get rid of sensitive files, and staging a reorganisation of the SB. In the spring of 1989, the unit in charge of postal control, Biuro “W” MSW, was formally dismissed; the activities of the unit, the covert opening and control of correspondence were contradictory to the essential human and citizen rights. The eventual disclosure of the Biuro “W” MSW existence and its dealings would be catastrophic for the communist party and especially for the SB. The structures of “W” units were transferred to the II directorate of the SB, the “counterintelligence” unit, which hid the real scope of “»W« work” (as the postal control was called in MSW) under the cloak of presumed “counter-espionage”.

On the 24th of August 1989, the day of the swearing in of the first non-communist Prime Minister, Tadeusz Mazowiecki, the then minister of internal affairs, Czesław Kiszczak, ordered the reorganisation of MSW departments. The central units of the SB were merged building new structures. Department III MSW, the unit in charge of invigilation and containment of political opposition,

was renamed “Department Ochrony Konstytucyjnego Porządku Państwa” (“the department for the protection of the constitutional state order”). Department IV MSW, the unit in charge of the invigilation of Church was dismissed, its structures and assets were merged with the former Biuro Studiów MSW (also an operative unit) to the new Department Studiów i Analiz MSW (“the department of study and analysis”). Departments V and VI were merged into the new Department Ochrony Gospodarki (“the department for the protection of the national economy”). The SIGINT unit (Biuro RKW) was merged into Department II. The reorganisation intended to simulate the transformation of the SB to the “state political police”. The 11th section of the 1st department MSW (Wydział XI Department I MSW), the unit in charge of “countering ideological diversion”, which acted against Polish émigrés, was dismissed on the 1st of September 1989. In the October of 1989 the SB officers’ school (Wyższa Szkoła Oficerska im. F. Dzierżyńskiego, WSO) in Legionowo (named after Cheka founder and chief of Polish descent, Feliks Dzierżyński) was reorganised, formally dismissed, and merged into the MSW academy (Akademia Spraw Wewnętrznych, ASW) as a “state security department” (Wydział Bezpieczeństwa Państwowego ASW).

Similarly, in November 1989, ZOMO was renamed to “Oddziały Prewencji MO” (“MO prevention units”). The internal political unit of MSW, Służba Polityczno-Wychowawcza (“political-educational service”) was dismissed in the November 1989. Departments I (foreign intelligence) and Department II (counterintelligence) and the technical-operative units were allegedly excluded from the structure of the SB (although those units were mentioned in December 1989 as parts of the SB).

The internal reorganization of the MSW followed a new concept for a security service; operations against the parliamentary opposition and Church were to be ceased, and the new aims of activity would be countering economic crime, terrorism and subversive dealings (as Kiszczak understood the activities of extra-parliamentary opposition).

The “volunteer” police force ORMO was dismissed by a parliamentary act on the 23rd of November 1989, although it appeared, that ORMO members anticipated the ensuing dismissal, and formed “Stowarzyszenie Wspierania Porządku Publicznego” (“association for support of public order”), that quickly acquired some significant permissions from the MSW enabling it to act as security contractors and a paramilitary force. Shortly after, these circumstances were made public, and ultimately in December of 1990 the Highest Court abolished the SWPP.

The changes in the MSW were not only to the SB. The handlers of the SB had foreseen the ensuing overhaul or even dismissal of the service, and did everything possible to get rid of compromising materials and move their functionaries to secure posts, outside of the structures of the SB. Also, the personnel of the SB were transferred to the other branches of MSW, mainly to the criminal police (MO), and significant numbers of SB officers retired. Other members found work at newly formed private security companies. In effect, in the end of January 1990, the central units of the SB in the MSW formally counted 3, 500 members.

The staged reorganisation of the MSW aimed to build some kind of “stay-behind” structures for the stranded SB members, and to keep control over the remaining security service units. Making a “leap forward”, Kiszczak suggested to Mazowiecki to form a political advisory committee in the MSW that would control the dealings of the security service, but did not plan to grant the committee access to operative information and procedures.

Between 1989 and 1990, the parliamentary coalition prepared a series of acts abolishing the SB and separating the police force from future security services. The acts were voted on the 6th of April 1990, transforming the MO into a new police force, dismissing the SB and forming a new security force, Urząd Ochrony Państwa (UOP, Office for the State's Protection).

An act on 6th April 1990 of the UOP stated, that the SB is to be dismissed on the 31st of July 1990; the new deputy minister of internal affairs ordered the immediate cessation of SB activities on the 10th of May 1990 (excepting the communication units). The former SB functionaries were permitted to apply for employment in the UOP, although under a compulsory overview of their dealings in the SB. Of the more than 14 thousand former SB officers who applied to the UOP, 5 thousand were rejected during the initial overview in local "verifying committees". From the 4.5 thousand former SB members that appealed the ruling to the central verifying committee, 1.8 thousand succeeded in the appeal. Departments I and II personnel (foreign intelligence and counterintelligence) came through overview practically untouched, the technical-operative units ("T" and communications branches) and surveillance units ("B" branch) were exempted completely from the overview. The new UOP was formed from 10 thousand former SB employees, with intelligence, counterintelligence and auxiliary units practically intact; only the former leadership of the SB was excluded from further service. Only one unit of UOP, Biuro Analiz i Informacji (analysis and information bureau, an OSINT unit) was formed from scratch; it's personnel consisted of former opposition activists.

The MSW's academy, Akademia Spraw Wewnętrznych, was dismissed by the government decision of the 10th of September 1990; the ASW formally ceased to exist on the 31st of March 1991, part of was used as a new Higher School of Police (the ASW's buildings were allocated to Warsaw University).

The reorganisation of the military security services proceeded similarly, but with one important difference; there was no overhaul of the army's security services; its personnel was almost entirely transferred to the new agencies. Only a handful of commanders were dismissed. Apparently the dismissal of the SB took a greater part of politicians' and lawmakers' attention, and the military services were not on their radar. The parliamentary subcommittee for the scrutiny of the WSW dealings was formed in 1990, but the outcomes of its dealings were practically unknown at the time; only a handful of information on the subject was published in 2008.

The internal military security service, the WSW, was formally dismissed in April of 1990; the military police branch of the WSW was reformed into a separate unit, Żandarmeria Wojskowa (ŻW, military police), the security branch of the WSW was merged with Zarząd II SG WP (foreign military intelligence) into Zarząd II Wywiadu I Kontrwywiadu SG WP (2nd Directorate for Intelligence and Counterintelligence of General Staff). This unit was reformed in August 1991 and renamed Szefostwo Wojskowych Służb Informacyjnych (WSI, military information service). The separate MSW's WSW unit (in charge of control of MSW's military units) was dismissed in July 1990, and a separate ŻW unit for MSW troops was formed in September 1990.

Border protection troops (WOP and its security unit, Zwiad WOP) were formally dismissed by a parliamentary act on the 12th of October 1990; formally ceasing to exist on the 16th of May 1991. The personnel and assets of the WOP were transferred to the newly formed border guard force, Straż Graniczna.

The NJW MSW troops survived the first stage of transition, and were used as a diplomatic and government protection unit. In the years 1998–2001, the units of NJW MSW were dismissed; it's personnel and assets partially transferred to Straż Graniczna and the government's protection office.

The Censorship office was dismissed by a parliamentary act on the 11th of April 1990.

CONTRIBUTION OF CITIZENS TO THE TRANSFORMATION

The impact of public opinion, especially the to the reinstated by the 1989 Solidarity press, "Gazeta Wyborcza" and "Tygodnik Solidarność" was one of the crucial factors in the control and subsequent dismissal of the communist security services. The free press informed the public about the alleged attempts to destroy the regime archives, the transition of the ORMO into a privileged security association, and the failed government plans to sustain the institution of censorship.

The main factors of the dismissal of the security services were the political transformation and forming of a new government between the summer and fall of 1989. The then former democratic opposition gained, initially limited, insight into the dealings of the "power ministries". The forming of a parliamentary coalition led by the Solidarity faction enabled the forming of the government and the voting of acts dismissing the former security services. It should be noted, that without the constant public demand for the abolishing of the SB, and the efforts of members of parliament to explain the dubious dealings of the security services, the government would remain reluctant to move forward with a fast transformation.

The popular reaction to the disintegration of communist party included the demand for the dismissal of the SB. The decomposition and then self-dismissal of PZPR were met with a series of rallies in numerous cities, from January until March of 1990; the demonstrators demanded resignation of Wojciech Jaruzelski (then president of Poland), dismissal of the PZPR and the SB. In Poznań, Szczecin, Kraków and Gdańsk demonstrators tried unsuccessfully to storm the buildings of the SB, the buildings of the SB in Warszawa and Rzeszów were blocked by rallies. However, the demonstrators were not numerous enough to occupy the SB buildings, or cease the activities of the secret service or to seize the archives.

The demand for change in the security authorities came from an unexpected direction; the political transition enabled the forming of an independent trade union in the MO units; the loosening of political control let some the MO functionaries demand the separation of the MO from the SB and the forming of the criminal police. Nevertheless, the demonstrations and dissent inside the MSW were not the decisive factors of change; the cause of the transformation of the security services was the political transition. The security services, just like the whole state apparatus, lost their communist handlers and Soviet support (the official KGB station in Warsaw was closed in summer 1990), and the establishment of a connection to CIA in May 1990, might have significantly contributed to the developments in the matter.

LEGAL AND POLITICAL FRAMEWORK OF CHANGES TO THE SECURITY APPARATUS

The initial changes in the structure of the SB, in the second half of 1989, were of a dubious legal nature. The structure of the MSW

according to the 1983 act concerning the office of the minister of internal affairs, was to be decided by the government. On the 22nd of August 1989, two days before the swearing in of the new, non-communist prime minister, Tadeusz Mazowiecki, the departing communist prime-minister Mieczysław Rakowski authorized the then minister of internal affairs, Czesław Kiszczak, to reorganize the ministry. Although such delegation of power was illegal, it was not immediately objected to. The subsequently announced parliamentary plans to arrange the matters of security services were met with a ministerial initiative. Kiszczak and his apparatus submitted to parliament their own proposals concerning the organisation of future security services. The controversy matters concerned the subordination of the future office of state protection (UOP) to the office of the ministry of internal affairs, or to the office of prime minister, relative to the office of the republic's president; the separation of the criminal police from the security service, and the ensuing overview of SB personnel. Ultimately, parliamentary bodies dominated by former Solidarity activists decided the future organization of the UOP and police.

The dismissal of the communist ministers of internal affairs (Czesław Kiszczak) and of national defence (Florian Siwicki), and the subsequent appointment of new non-communist ministers led to the effective dismissal of communist services, and forming of the new ones; although manned almost completely by old personnel. The employment of former SB functionaries was allowed after mandatory overview by special committees, as described in the government's decree of the 21st of May 1990, it concerned the employment of former SB officers in UOP.

The SB was dismissed by a parliamentary act on the 6th of April 1990, it concerned the formation of the UOP.

The MO was reorganised and transformed into the Police by parliamentary act on the 6th of April 1990, it concerned the forming of Police.

The ORMO was dismissed by parliamentary act on the 23rd of November 1989.

The Akademia Spraw Wewnętrznych was dismissed by government decree on the 10th of September 1990.

The military political academy (Wojskowa Akademia Polityczna, WAP) was closed by a government decree of the 21st of May 1990. It's supervisory unit, Główny Zarząd Polityczny WP (main political directorate of the army, GZP WP) was dismissed in December of 1989 by the ministry of national defence.

The censorship office was dismissed by parliamentary act on the 11th of April 1990 regarding adjusting press regulations.

The border protection troops WOP were dismissed on the 16th of May 1991 due to the stipulations of a parliamentary act on the 12th of October 1990, it concerned the forming of the border guard agency Straż Graniczna. The personnel and assets of the WOP (and of the maritime brigade of the border protection vessels – unit commanded by the ministry of national defence), were transferred to the SG.

The military security services and its political units were transformed by order of the military supervisors.

NEW SECURITY SERVICES AND LAW ENFORCEMENT AGENCIES IN POLAND 1990–2017

The security services were initially controlled by parliamentary permanent committees of the administration, and internal

affairs and national defence. The separate permanent committee for the supervision of the security services (Komisja do spraw Służb Specjalnych, KSS) was formed by parliamentary act on the 27th of April 1995, it concerned the parliamentary proceedings regulation.

Urząd Ochrony Państwa (UOP, “office for the state's protection”), intelligence, counterintelligence, antiterrorist and security agency was formed by parliamentary act on the 6th of April 1990 and started its activities on the 1st of August 1990. The UOP was reformed by parliamentary act on the 24th of May 2002; the agency was split into Agencja Wywiadu (AW, intelligence agency) and Agencja Bezpieczeństwa Wewnętrznego (ABW, internal security agency).

Wojskowe Służby Informacyjne (WSI, “military information service”), military intelligence and counterintelligence agency was formed as a branch of the ministry of national defence on the 22nd of April 1991, its existence was legally recognized by parliamentary act on the 25th of October 1991, it concerned matters of national defence; and subsequently by the special parliamentary act on the 9th of July 2003. The WSI was dismissed in 2006 by parliamentary act on the 9th of June 2006. The dismissal of WSI was followed by overhaul of its personnel and the forming of the new agencies, Służba Wywiadu Wojskowego (SWW, military intelligence service), and Służba Kontrwywiadu Wojskowego (SKW, military counterintelligence service) by parliamentary act on the 9th of June 2006.

The criminal and public order police (Policja) was formed by parliamentary act on the 6th of April 1990; the personnel of the former MO were transferred to the new police force (with the exemption of those MO functionaries who until the 31st of July 1989 were SB functionaries).

The military police (Żandarmeria Wojskowa, ŻW) was separated from the dismissed WSW in April of 1990 by order, of the then, minister of national defence, Florian Siwicki, and formed officially on the 1st of September 1990. The existence of the ŻW was legally recognized by parliamentary act on the 25th of October 1991, it concerned matters of national defence (as well as the existence of the WSI).

The border guard agency Straż Graniczna (SG) was formed on the 16th of May 1991 by the parliamentary act on the 12th of October 1990.

The Polish republic has two law enforcement agencies, not directly preceded by similar institutions under communist rule, fiscal intelligence (since 1991 various units of the ministry of finance, today it is the Department Zwalczania Przestępczości Ekonomicznej, the department combating economic crime in the country's revenue service), formed by parliamentary act on the 28th of September 1991, it concerned fiscal control, and the country's anticorruption bureau (Centralne Biuro Antykorupcyjne, CBA), formed by parliamentary act on the 9th of June 2006.

LESSONS LEARNT

The functioning of the new security services was under limited public scrutiny due to the secret character of their duties. However, the matters of state security remain secret; some significant features, mainly flaws, of the new security services were revealed.

The effective parliamentary supervision over the security services was vital for the lawful activities of the latter, the permanent parliamentary committee however, was, and is, significantly

dependent on the flow of information from the services involved. The impact of public opinion and the free press seems to be one of the most important factors for public control over the activities of secret services (especially when the oversights, and errors, or inaction of the services are made public).

The flaws of the decision to retain former SB functionaries (and to follow SB methods) in the new republic's services became apparent when some landmark scandals broke out.

In March 1993, the leader of, the then, opposition party Porozumienie Centrum, Jarosław Kaczyński announced that the UOP issued a secret instruction (called after its number "instruction 0015/92"), it concerned the operative invigilation and disintegration of the opposition parties and movements. The UOP denied the allegations of its operative dealings against the opposition, nevertheless the notorious instruction was withdrawn after the revealing of its contents.

In December 1995, the then, acting Prime Minister, Józef Oleksy, was accused by minister of internal affairs, of being a secret agent of Russian foreign intelligence, codenamed "Olin". In the course of the subsequent investigation and parliamentary examination, it was revealed that almost all of the UOP commanding officers involved in the case were SB functionaries, and one of the acting UOP operatives was a notorious former MSW foreign intelligence agent.

In 1997, the newly formed post-communist government announced that in the in the years 1991–1997, a cell tasked with operative invigilation and disintegration of opposition parties and movements existed in the UOP, which recruited and handled agents, forged documents, and conducted disinformation campaigns. The leader of the cell, Jan Lesiak, was a former SB officer, engaged in high-profile operations against the opposition prior to 1990.

In 2006, the continuous rumours about the allegedly illegal and criminal activities of the WSI were met with a parliamentary motion to abolish the whole military security service and to form a new military intelligence and counterintelligence agencies from scratch. The subsequent examination of WSI dealings revealed, that the service was as inefficient as the counterintelligence agency, its officers were trained by Soviet intelligence and maintained highly suspicious contacts with Russian intelligence operatives, (the agency was involved in illegal international weapons trade and criminal dealings at home and overseas; the most significant case was the WSI involvement in the so-called Fundusz Obsługi Zadłużenia Zagranicznego/FOZZ affair, a massive fraud scheme concerning foreign debt handling agency), invigilation and disintegration of opposition parties, ran disinformation campaigns in the press by its agents. The leadership of the WSI consisted almost exclusively of former Zarząd II SG LWP and WSW officers.

Private security companies were the hideouts of dismissed former SB and MO functionaries. The general opinion on the sector, that such companies were necessary as police in the early 90s, was seen as inefficient, but the clandestine links of security contractors with the criminal underworld, the police and the secret services was seen as a threat to common security. However, the connections of security contractors seemed to be substantial

in some criminal cases, the presumptions of the ensuing major threats to the state's security appeared to be exaggerated.

The special services established in the first years of new Polish republic were to be reformed or even dismissed (as WSI), partially because of their limited capacity to protect national security. The reluctance of the first non-communist governments to radically abolish the communist security system, and to penalize its men, created a relative lack of resistance (as a communist apparatus was also in crisis), but resulted in serious impediments for the settlement of the crimes of the regime. In fact, in early 1990, communist crimes were not properly investigated and prosecuted. The communist security services' members even retained their pensions privileges (abolished partially in 2009, and on wider scale in 2016). The presence of the former SB functionaries in the new secret services caused significant – and well-founded doubts about the reliability of the service as institutions of a democratic state.

RECOMMENDATIONS

Recommendations are highly political in character. The dismissal of the secret services of the regime is always a serious risk to public order. Continued activity, superficially reforming, or simply not touching the old secret services is a serious threat for a democratic transition, and for transparency in public affairs and national security. The men of the former regime's security services may, and usually do, have clandestine connections, and loyalties to external powers (as in communist states, with USSR and other services), and the criminal underworld. The secret services are a segment of the state with efficient control of key national resources. On the other hand, the interruption of these activities, especially in the counterintelligence area, may be, although temporarily, harmful for national security. It should be noted that the real purpose of the regime's secret services was the protection of the regime itself, with profound detriment to the citizens and their fundamental rights. The former security services as a structure, and its members (although skilled in secret activities) are not fit to protect the democratic state and a sovereign nation. The painful and effort-consuming solution is to dismiss regime's secret services, and to build a national security services from scratch. The next step should be a systematic vetting and replacement of the military and police officers, as well as and NCOs, and a systematic vetting and replacement of the civil service (especially the foreign service).

A resolution of the former regime's security service problems is also a settlement of the former regime crimes. The relevant laws concerning criminal responsibility for the dealings of the former regime should also cover a strict examination and punishment of the former security service functionaries, with the extraordinary use of amnesty in exchange for vital evidence and a *common design* scheme for proving guilt.

Parliamentary supervision of the security services, although dependent, on the services' information and on camera acting, is an efficient and lawful measure for the control and examination of the actual dealings of security system.

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REGIME ARCHIVES (1989–2017)

FRANCISZEK DĄBROWSKI

INTRODUCTION

In the popular view, the “regime archives” are seen as the archival resources that were kept secret from the public during communist rule. This popular view often focuses on the most secret archives of the regime, i.e. archives of only the party and the security police. There were other institutions running relevant sectors of the totalitarian state, but the dealings of the communist party leadership and the security services built the core of the system and were most hidden – and therefore seen as most important.

The institutions most concerned (and it’s relevant collections) were as follows: the communist party (Polska Partia Robotnicza, PPR 1943–1948, Polska Zjednoczona Partia Robotnicza, PZPR 1948–1990), the ministry of foreign affairs (Ministerstwo Spraw Zagranicznych, MSZ), the Committee for the Defense of the Country (Komitet Obrony Kraju, KOK), satellite parties, networks of the secret services and coercive institutions consisting of the security service (Resort Bezpieczeństwa Publicznego, RBP 1944, Ministerstwo Bezpieczeństwa Publicznego, MBP 1945–1954, Komitet ds. Bezpieczeństwa Publicznego, KdsBP 1954–1956, Ministerstwo Spraw Wewnętrznych, MSW 1956–1990), the military security service (Główny Zarząd Informacji, GZI 1943–1957, Wojskowa Służba Wewnętrzna, WSW 1957–1990), the military foreign intelligence (Oddział/Zarząd II Sztabu Generalnego 1944–1990), the border guard security and reconnaissance unit (Zwiad Wojsk Ochrony Pogranicza, WOP 1945–1990), counterinsurgency troops (Korpus Bezpieczeństwa Wewnętrznego, KBW; Nadwiślańskie Jednostki Wojskowe MSW, NJW MSW), military political bodies (military political directorate: Główny Zarząd Polityczno-Wychowawczy, Główny Zarząd Polityczny, military academies), military HQ (Sztab Generalny WP), censorship (Główny Urząd Kontroli Prasy, Publikacji i Widowisk), other repressive institutions (Komisja Specjalna do Walki z Nadużyciami i Szkodnictwem Gospodarczym, the committee for suppression of the black market and private enterprises; Urząd ds. Wyznań, authority responsible for policy towards religious communities), judiciary bodies, including special military courts (Wojskowe Sądy Rejonowe, Najwyższy Sąd Wojskowy – district military courts, supreme military court) and the special military prosecution service (Wojskowe Prokuratury Rejonowe, Najwyższa Prokuratura Wojskowa – the district military prosecution service office, the supreme military prosecutions service office), and other various government bodies. The number of institutions and organisations engaged in coercive policy comes from the totalitarian character of the state (only the most important bodies were listed above, as decisive centres of power).

The main question for the former regime regarding records were: the threat of destruction (or transfer to the foreign power) of records, the transfer of the archives from regime organisations and institutions to state controlled institutions, and access for researchers and the general public (connected to questions of the legal status of the archives and its declassification).

REGIME ARCHIVES: SITUATION ON THE BEGINNING OF DEMOCRATIC TRANSITION

On the dawn of the transition of archival resources, the main regime body’s documents were held in separate archives, and were in principle not accessible to the general public – with some remarkable exemptions granted to the regime-approved researchers. The communist party records, as well as records of the preceding communist organisations, were kept in the archive of the party’s Central Committee (Centralne Archiwum KC PZPR). The secret police (Służba Bezpieczeństwa, SB whose central units were part of the Ministry of Internal Affairs, Ministerstwo Spraw Wewnętrznych, MSW) ran its own archive and registry unit, the so called “Bureau »C«” of the Ministry of Internal Affairs (Biuro “C” MSW, in local units: Wydział “C” – “C” Division), some units had their own registries. Bureau “C” kept the files of operative procedures, informants’ and agents’ case-files, employees’ personal files in separate and secret collections. Even the existence of Bureau “C” was hidden from the public: it was named “Centralne Biuro Adresowe” (Main Address Bureau – only for the “address information” purposes) or “Centralne Archiwum MSW” (Central Archive of MSW; only in cases of research on the files of the WW2 and pre-war provenience); the dealings of the main operative archive and registry of the security police were kept secret, as well as all actual dealings of the secret police. The military security services had their own secret registries and archives, separated from the military archival service. As the governance of the state was in fact secret, the archives were of key significance, not only for historians, but also for politicians – as a primary source of information about internal affairs. The opening of the archives was not considered a matter of the so called “Round Table” settlements in 1989; political reform and other reforms were discussed with the assumption that the communist party would stay in power. The landslide victory of Solidarność in the June 1989 election and the first events of the political transition did not profoundly change the situation.

CONTENTS OF THE REGIME ARCHIVES

The archives of the former regime central bodies are very large and contain a vast number of different categories of documents concerning matters due to its competence or jurisdiction and internal organisation of those institutions.

The former communist party archives consisted of several archival fonds. Sectors and secretaries’ offices of the party’s central committee were in control of the state’s central ruling bodies, the documentation of those units mirrored the most important governance matters. The minutes of the party’s central committee’s (and other party’s central bodies) proceedings are one of the most important collections. The other main parts of the former party’s central archives were the historical archives (containing records of the communist party from the mid-war period and files of proceedings of the party’s historical research

unit), central registry (containing personal files of members affiliated to the party's central bodies), control committee records (containing files of disciplinary proceedings), and records of the party's school.

The contents of the former security services are similar in general; the collections consist of several separate archival fonds containing case-files of agents and informants, operative and investigative files, object files, personal files of members of the service, administrative documentation like minutes of proceedings, operative guidelines, instructions and orders, information reports and evaluations, financial and accountancy records. The important part of the every security service archive was the registry, containing several card indexes, registration and archival logs, finding aids and archival protocols.

ATTEMPTS TO DESTROY THE REGIME ARCHIVES

On the brink of the transformation, the archives of the regime's institutions were still in possession and use by them; this situation led to the imminent threat of the "cleansing" of the politically sensitive documents. When the downfall of the communist share in rule became visible, the heads of the PZPR, the SB and the WSW apparently ordered the destruction of crucial materials; the minutes of the sessions of the central committee of the PZPR from '80s were destroyed, as well as a great number of documents of the security police and military services. The key preparations for this action were already made in 1980 (during the first Solidarity period, when foreseen martial law measures could lead to unwanted developments).

The files of the secret police were destroyed in formal accordance with, or in open defiance of the internal rules of document weeding: in fact, SB officers were engaged in the destruction of nearly all current operative case-files as "of no operative value"; the SB archives were extracting and weeding closed case-files and relevant cards from registries. The preserved weeding protocols from that period seem to be irrelevant. Apparently (as secondary sources indicate) the destructions of "all documents concerning illegal structures" and clergy, as well as object-files were ordered verbally in the summer of 1989. A report from July 1989 exists, stating that "according to the minister's order" the archive started to "analyse" and "separate and specially secure" documents of special importance in four categories: informants' case-files closed after 1975 (especially of those used against the opposition), operative and investigative case-files concerning opposition members (especially those who entered parliament in 1989), case-files concerning bishops, cardinals, and priests engaged in opposition, and all documents concerning polls and elections since 1946. At the same time (summer 1989) the leadership of the communist party archive sector and the SB were consulting the transfer of some records from the MSW archive to the party archive.

It seems to be enough to suggest that "analysing, securing and separating" of files were in fact preparation for the mass weeding of documents that could compromise covert actions and crimes of the regime, or compromise its active agents and informants.

On 26th August 1989, the deputy minister of internal affairs accepted the proposal made by the directors of Department IV of the MSW (in charge of Church surveillance) and Biuro "C" MSW (archive and registry) to destroy all of the operative case-files of Department IV (and its subordinate units), including those in

the archive. On 1st September 1989, the former director of Department IV (the unit was formally dismissed) ordered former units of this department that all operative case-files concerning priests (the old ones in archive either) were to be destroyed. The preserved files, in this case paperwork, show how the weeding process supposedly started in other units of the security service.

Apparently, nearly all operative case-files concerning priests and parishes (existing since the 1963 in the system of the "permanent invigilation" of Roman-Catholic Church) were destroyed, with only a few accidental exemptions; this action was meticulously done – even the old case-files were withdrawn from the archive and weeded. Also, the records of the MSW's 4th Department (Department IV) from the last 10-year period of activity, and the operative case-files were almost completely destroyed. Other divisions of the SB were also weeding their resources, with apparent priority given to active informant's case files, but in a much more clumsy manner. During the process, some of the internal rules were observed: the operative units informed the registry unit of the weeding of the relevant file; some important case-files that were already archived were withdrawn from the archive and then declared "weeded as of no operative importance". These reports and weeding protocols were however, not in every instance accurate: some (although not numerous) case-files were reported as weeded, but reappeared later untouched; weeding protocols were also unreliable, or not written at all. Unexpectedly (and luckily for the sake of future research and legal proceedings) the main registry tools, i.e. registration and archiving logs remained untouched (perhaps they were not seen as important). The card indexes were damaged only a bit less than archives; the registry cards were probably seen as "statistics paperwork", secondary to the case-files. The weeding of case-file should be followed by the weeding of the relevant registry card – but in many cases those cards were only prepared for weeding. Now, the existing card indexes are, in some cases, the only evidence documenting (with other instruments: registration, archival logs, and operative fund accountancy) the proceedings run by the former communist secret service.

As the entire process was done in a rush, there were also rumours about "privatisation" of files, i.e. theft of documents committed by SB officers awaiting dismissal, or passing of files to informants. The landmark case the "privatisation" emerged in February 2016 when the widow of late Czesław Kiszczyk (former communist minister of internal affairs) proposed selling the case-file of the informant "Bolek" to the Institute of National Remembrance (Instytut Pamięci Narodowej, IPN); the case-file contained compelling documentation pointing to Lech Wałęsa (historical leader of Solidarity) as an SB informant, active in 1970–1975.

Information of the mass weeding of SB documents soon leaked to the public, and became a theme of parliamentary intervention in the MSW. The reaction of the MSW was contradictory; on 31st January 1990, the communist minister of internal affairs, Czesław Kiszczyk, ordered all weeding of all documents to be strictly prohibited; three weeks later, the deputy minister assured the general prosecution service office that no action of the mass weeding of documents was ever ordered or conducted by the MSW. Actually, the weeding of SB files continued, although not in previous extent (for example, a significant part of the main operative card-index was prepared for weeding, but was saved when found in "evacuation sacks" months later), and

was stopped only when the SB was finally dismissed by parliamentary act. The remnants of the SB archives and registries were taken over by new state security police, Urząd Ochrony Państwa (UOP), and were partially reconstructed. Nevertheless, the report of the analysis unit of the ministry of internal affairs published in July 1992 pointed out that the clandestine weeding of SB documents started in the Summer of 1989, and continued to the January 1991.

The size of the loss of the operative archives and registries of the SB cannot be ultimately established. It appears that a majority of case-files of active agents and informants, key operative case-files concerning leading personalities of the opposition, almost all case files concerning priests, parishes, and higher clergy, and a significant number of foreign intelligence case-files were destroyed. The destruction of the files was mirrored by the extracting and weeding of relevant cards from the operative card indexes. "Separated card-index" (assembled in 1989–1990) contained approximately 525 thousands cards; about 55 thousands were weeded by 1990. The remnants of "separated card-index" were also prepared for – but unfinished – weeding. The main operative-archival electronic database (Integrated System of Operative Card-Indexes, Zintegrowany System Kartotek Operacyjnych, ZSKO) was also the subject of data cleansing; the preserved database was reconstructed from the back-ups made in 1988 and 1990. Another example of the weeding of significant documents concerned the SOUD registry; the Polish branch of the SOUD organisation was a part of the SB archive, and from the beginning of the activities of the system, accumulated a significant volume of documents. At the turn of 1989 and 1990, the collection was destroyed; a KGB connection officer took the main normative Russian acts and relevant agreements away in the spring of 1990.

The military security service (WSW) was far more effective than the SB in getting rid of its archives, probably thanks to the deeper secrecy of its dealings. In November 1989, Gen. Edmund Buła ordered the weeding of almost all of the documents of the WSW and the former military security service, the Stalinist Informacja Wojskowa (Head Directorate of Military Information, Główny Zarząd Informacji, GZI). As an extraordinary parliamentary subcommittee for the examining of the dealings of former WSW stated, the destruction of the military security service archive continued until the end of July 1990, when the Chief of Army HQ ordered control of the archives (there were also instances of document weeding after the order). The destruction was described as "total". As the military control body stated in 1991, the weeding of informants' and operative case-files had already started in 1982, but the most profound damages were made in the first months of 1990. Approximately 77 % of all of the resources of the WSW archive were destroyed, and its section containing the files of the GZI suffered an 84 % losses. The action was considered "dealings attempting to destroy compromising evidence". The losses of the WSW archives in the local branches were even higher.

REGIME ARCHIVES IN TRANSITION

The records transfer process of the regime institutions and organizations from the original handlers to institutions of public trust was painful, long, and full of difficulties.

The content of both the party's and the secret service's archive was seen as extremely politically sensitive; as they contained the documents compromising regime policy and dealings

about a great number of citizens involved in the maintaining of totalitarian rule.

The self-dismissal of the communist party (PZPR) on 29th January 1990 enabled the seizure of party's assets – i.e. The archives. On 23th January 1990, the government (although reluctantly) ordered the forming of a committee responsible for the examining of party property and restitution of the state's assets (the decision was approved by parliament on 26th January 1990). One of the committee decisions was that the party's archives should become a part of the state archival network. The relevant parliamentary act on 9th November 1990 declared that all former communist party's assets (as it were on 24th August 1989) were to become state property. These acts were crucial for the seizure and transfer of the records of the communist party from its archives to the national archival service.

In 2000, the commissioner responsible for the restitution of state assets was admitted to see some of the party's records in AAN, he stated later that the documents were in disorder, and pointed out that the extent of missing records, indicated that a deliberated destruction of files had occurred. The Commissioner focused on records concerning the party's financial affairs (and therefore – as they concerned the assets that could be seized – a subject of destruction). The abovementioned statement is contradictory to the general description of the PZPR's archive as seized "by order".

Although the central archive of the PZPR had already been transferred to the AAN in 1990, the records were not accessible for a very long period. Access to the PZPR's archive (as "fonds in the process of ordering") was granted only to a handful of researchers despite the huge interest by historians and the public. However, those obstacles were seen as an impediment, the resources were not declared secret. Access to the PZPR resources was gradually widened.

Initially, the archive of the MSW was a subject of very peculiar scrutiny; in the beginning of 1990 the minister of public education formed a committee tasked with getting insight into the SB archive (but without clear aims or powers); the committee consisted of several public personalities, i.e. Prof. Andrzej Ajnenkiel and Prof. Jerzy Holzer, renowned historians, Bogdan Kroll, then head of AAN and Adam Michnik, former opposition activist (then MP). The dealings of this committee remain unclear, there is no record of the files that were presented to the body, its final report was very brief and mainly stated that the contents of the MSW archive are "incomplete". It should be noted, that abovementioned committee was granted, apparently, direct and significantly wider access to the MSW archive than the parliamentary special committee for the examination of activity of the MSW (already formed on 1st August 1989); the latter committee complained of numerous impediments and the lack of cooperation by the ministry.

After its dissolution, the archives of the former communist security services became part of the new republic's civil (Urząd Ochrony Państwa, UOP) and military (Wojskowe Służby Informacyjne, WSI) services' operative archives – and for a long time were practically inaccessible to the public or press, with a few exemptions granted for researchers in the UOP archive. The range of access was also carefully limited; the case-files of agents and informants were not released at all, the researchers were not granted access to the finding aids and the registry. The resources were treated as secret, and relevant security classifications (dating from pre-1989 period) were deemed still valid.

The significance of information from the former security services archives for domestic policy and for the public was clearly recognized. In June 1992, the matter became a subject of political discussion, when a parliamentary resolution ordered the minister of internal affairs to disclose file information concerning MPs and leading government personalities recorded by the communist security services. The subsequent developments had a catastrophic effect for the, then, government; on the night after the information concerning the MPs was found in the registry and the archive of the MSW were circulated, a parliamentary coalition of fear emerged and voted to form a new cabinet. Two weeks later, the constitutional court declared the "lustration act" unconstitutional and void. The list (called "Lista Macierewicza" after the name of Antoni Macierewicz, then minister of internal affairs in charge of the implementation of parliamentary resolution), although originally secret, was published by some newspapers a few weeks later, revealing that a number of leading political personalities were mentioned in case-files and card-indexes as registered informants; the information held in the archives appeared to be a key factor of any settlements concerning secret liaisons with former communist security services. It appeared later that similar list (called "Lista Milczanowskiego" after the name of Andrzej Milczanowski, then deputy head of UOP) was secretly prepared by the UOP before the 1991 parliamentary election.

The matter of any dealings of the former communist security services became one of the most important issues in Polish politics; the contents of the regime archives also became the focus of public interest. The archive was still deemed secret for several, more or less, legitimate reasons. The secrecy classifications from the communist period were not made summarily void; communist regulations and laws concerning public secrets were upheld as valid. The secret security archive was declared as containing documents still important for national security (especially concerning matters of foreign intelligence) and of extreme personal sensitivity. In the public discussions ignited by the events of 1992 the following matters were considered: state security interests connected to the contents of the security services archives, the protection of dignity and personal data of people affected, and possible threats to the political stability of the country. The subject of the debate quickly became controversial; some emotional arguments were raised, principally describing eventual settlements as a "witch-hunt". The fact that the sole handler of the former security service archive was the UOP; although formally a new service, it was manned and commanded by old SB-men. Also, the fears of politically motivated misuse of documents from the SB archive emerged, as well as for the integrity of the resources.

As the former secret services archives were practically closed, anxieties about its presumed misuse emerged, as well as the general assumption that the government still was using the assets of the former communist security service, i.e. both its functionaries and informants, possibly also its operative networks, and vast collections of documents containing sensitive information. This led to the general assumption, held by numerous post-Solidarity circles, that this particular sector of government, i.e. secret services, got through the democratic transition with only little ruffle of feathers, and can still seriously influence policy and economic life with its clandestine connections – without the control of lawmakers or the public. The existence of clandestine informant networks was seen during the communist rule as a threat to the basic social bond: mutual trust. Keeping records of the former security

service secret, after the democratic change was seen a limited continuity of social technology, contrary to public interest and the democratic rule of law. The fact that someone was a functionary of the communist secret service or its informant was (and still is) seen as a profoundly compromising to persons and their dealings, and makes the person affected vulnerable to blackmail or recruitment. Nevertheless, as long as the former security archives were kept closed, the public was denied the knowledge of such people. The records "privatised" by former SB-men were another matter; former SB circles leaked or even forged documents and information in an attempt to compromise some political personalities, as it happened in cases such as Zbigniew Najder and Jarosław Kaczyński. The missing records could have been smuggled to Russia or sold to foreign powers security agencies.

The popular demand for legal action concerning the crimes of the former regime led to few investigations and trials. There were also opposing attitudes towards the opening of the archives and the releasing of secret information to the public: it could cause public unrest and violent settlements, create a "atmosphere of a witch-hunt", incite victims to revenge (nobody mentioned the eventual revenge by former communist security service men), and also undermining Polish foreign intelligence. The possible resettlements were seen by many as contrary to the "spirit of 1989 reconciliation". It should be noted now, that the lack of access to the regime archives by the public and researchers caused the emergence of populist attitudes and shallow opinions.

The formal examination of records of former regime was only held in few proceedings. In the beginning of '90, the Ministry of Justice – thanks to special entitlements granted by a parliamentary act on 23rd February 1991, launched the judicial review of numerous sentences concerning people "engaged in activities for an independent Polish state". Nevertheless, the proceedings were only based on the contents of the courts' records, secondary to the operative case-files; the latter were not examined and were still kept secret. A parliamentary inquiry concerning the fates of approximately 100 people killed by authorities during the martial law period (1981–1983) was focused on particular cases, and did not lead to the assumption of general rules or acts concerning the settlement of communist crimes. The few trials – concerning massacre in Wujek coal mine (16th December 1981), massacre in Lubin (31st August 1982), murder of Grzegorz Przemek (12th May 1983), tortures in the detention prison of Ministry of Public Security (MBP) in the '40s and '50s, supervision over the conspiracy to kidnap and murder of Rev. Jerzy Popiełuszko (19th October 1984), introduction of Martial Law in 1981 – were prolonged and only a handful of perpetrators were sentenced. The examination of documents needed during abovementioned proceedings was extensive, and revealed a number of aggravating circumstances, but the outcomes were particular – connected to the specific proceeding. Numerous legal obstacles caused by the natural resistance of the culprits also affected the proceedings.

The rather unsatisfactory outcome of the legal proceedings concerning communist crimes was a significant factor influencing the popular demand for the open access to the regime archives – as a resource of legal evidence and fund of information needed for a healthy social and political life.

The governing of sensitive data by a secretive institution seen as a post-communist organization raised concerns about its information handling; it led to calls for the transfer of the abovementioned resources to an independent institution. The settlements held in the former GDR influenced public opinion and

some political circles demanded the forming of “Polish Gauck-Behoerde”. Another matter was the screening of public personalities for ties with the former communist security service; post-Solidarity movements declared the need for such an arrangement.

Matters dealing with the regime archives were only disputed after the abovementioned disastrous 1992, first attempt to screen MPs was abandoned; the next government and a parliamentary majority were not prone to disclose any information from the archive. The return of the post-communist coalition to power in 1993 halted any possible movement on the issue; social democrats and their agrarian allies, both from former regime provenience, were not interested in disclosing the records of the former communist secret service. The matter was unresolved until the 1996 landslide victory of the post-Solidarity coalition. The subsequent voting of the parliamentary act on 11th April 1997 concerning vetting of public personalities (“lustration”), parliamentary declaration condemning communist totalitarianism of 18th June 1998, and the parliamentary act on 18th December 1998, forming the Institute of National Remembrance cleared the way to the open access to the archives of the communist security services and the legal use of records from those archives. Abovementioned acts formed two new institutions commissioned to deal with the archives of the former communist secret services: Biuro Rzecznika Interesu Publicznego (BRIP, Bureau of the Public Interest Advocate) – in charge of vetting public personalities, and Instytut Pamięci Narodowej (IPN, Institute of the National Remembrance) – in charge of archives, research, and prosecution of communist crimes.

BRIP started its activity in 1998, and in the first years of work it relied on the cooperation of the archival unit of Poland’s security services, the UOP (in 2002, divided to two separate agencies: Agencja Bezpieczeństwa Wewnętrznego, ABW – Agency for Inner Security, and Agencja Wywiadu, AW – Intelligence Agency) and the WSI. Forming of the IPN and the following transfer of archives meant, that “lustration” proceedings run by the BRIP were assisted partially by the archives of the secret services and increasingly of the IPN’s archive. BRIP was abolished in 2007, and its tasks were transmitted to the IPN – since then the use of records for the vetting proceedings were joined into one institution.

Although the Institute of National Remembrance was formally formed of the former Head Commissioner for the Prosecution of Crimes against the Polish Nation (GKŚZpNP, Główna Komisja Ścigania Zbrodni przeciwko Narodowi Polskiemu), in fact the IPN was starting from scratch. An act in 1998 was vetoed by, then, Poland’s president, A. Kwaśniewski, a prominent former member of the communist party. Nevertheless, the presidential veto was overturned by parliament, and finally the IPN started its activity in 2000. The main task of the newly established Institute was to secure the transfer of the records of the former communist security services from the archives of the Ministry of Interior, secret services, courts, police, military archives and many other institutions. In the first year of activity, i.e. until 30th June 2001, the IPN took charge of approximately 13 kilometers of files, of the, then, estimated number of 95 km to be seized. In 2003, the archive of the IPN contained about 77 km of files. In 2016, the archival resources of the IPN reached 91 current km of files and 10 meters of card-indexes.

Additional agreements and protocols were needed for the transfer of the records and registries from the archives of the secret services (still rendered secret), and getting security clearance for the employees of the IPN. The transfer, elaboration,

and even housing of the files were a serious challenge; the IPN initially did not have buildings to house the archives.

The reason for the forming of the IPN was to enable access to the files for citizens affected, and to the press, boost research on the communist reign, and enhance the investigations concerning communist crimes. All of these fields of activity relied on efficient archival management. In brief, the task of the IPN was the disclosing of the, then, secret documents to the people lawfully entitled. In subsequent years, the legal use of the regime archives significantly widened, covering the analysis of decoration motions, pensions equality proceedings, compensations applications, research concerning the recovery of regime victim bodies. The IPN education and research branches crucially benefited from the archival research too.

However, the act forming the IPN provided provisions for people affected by the communist regime, and also for researchers and the press; there were also security clauses included: security services were entitled to establish a so called “restricted resource”. “Restricted resource” contained files seen by the security services as still important for national security (supposedly containing information important for their post-1990 operations or revealing identity of their officers and informants). The existence of such a resource was stipulated in the act forming the IPN, and as such was known to the public, inciting numerous rumours towards its alleged contents. One of the most important features of the “restricted resource” was the fact that the operative card-indexes and registry tools (like registry and archival logs, operative databases) of former communist security service were restricted.

The files handed to the IPN (all of them, not only those “restricted”) were listed in protocols that were also given secrecy clauses.

These circumstances led to numerous obstacles in the access to files; there were no other open archival aids. Every inquiry needed procedures for checks in card indexes and additional declassifying proceedings. The elaboration of archival fonds (ordinary element of archival work) in such circumstances was not enough; a need to compose a number of un-classified finding aids (listing not only archival funds or collections, but in every single file) emerged as indispensable and urgent. The restrictions imposed on the part of the archival resource led to some legal cul-de-sacs, for instance barring the decryption and declassification of huge volumes of tapes containing SB encrypted operative databases.

The lawmaker’s decision to fit the access proceedings into the rules of administrative code (that formally guaranteed the judicial review for rejected applications) contributed to the relative complication of the access proceedings (in comparison with access proceedings in state archives).

The declassification and sanitizing of records was a complex issue; the pre-1990 classification clauses were still deemed as valid. The inaccuracy of the official secrets act was a serious impediment to further activities at the IPN; initially the secrecy clauses were interpreted according to formal entitlements of a non-existing communist security service; only secrecy classifications issued before 1983 (when the communist parliament pronounced an act of the office of ministry of internal affairs, formally recognizing the existence of the security service) were abolished. The relevant secrecy laws were gradually changed, allowing declassifying secret documents issued before the dismissal of the SB (31st July 1990) and the military secret services (31st December 1990). An initial clash with the state’s personal

data protection office was dismissed by exempting the IPN from the country's personal data protection rules; lawmakers considered the disclosure of information concerning the communist rule of greater public interest, than an individuals' personal data protection. Finally, subsequent changes in the official secrets act declared all records open, which were to be transferred to the IPN archive – except the “restricted resource”. The existence of the “restricted resource” was terminated in the last enactment of the act forming the IPN (2016): the security services were obliged to conduct an ultimate overview of the resource, release unnecessarily classified files, and submit well-founded requests for the preserving of secrecy classifications of remaining records – till 15th June 2017.

The initial rules of access to the files and data in the IPN's archive followed a very strict German pattern; clauses of the BStU Act were mirrored in the first enactment of the IPN-Act. Subsequent changes in the act relaxed those rules step-by-step; today there is no compulsory sanitizing (“anonymization”) of data in disclosed documents; other terms of access were also loosened. The only important restriction was introduced in favour of people affected by persecutions; they have the right to file a demand for restrictions to access data concerning their personal life.

The development of the terms of access was primarily shaped by the country's policy. The demands for broader access to files, widening of the vetting proceedings (that influenced also archival proceedings), general support for IPN's activities (and relevant expectations) were parts of the political program of post-Solidarity parties, and were mirrored in several major adjustments and changes in acts concerning the IPN and vetting (“lustration”) proceedings. There were also other circumstances that heavily influenced the activities of the IPN and the raised public awareness concerning matters of the regime archives.

Possibly the most important of these incidents was the serious leak of data concerning informants and officers of the SB and the KBW. In the beginning of 2005, one of the databases compiled in the IPN (and accessible to researchers in the IPN's archive reading room) was leaked and broadly disseminated on the Internet. The list was soon named “Lista Wildsteina”, i.e. “Wildstein's List” after the name of journalist, Bronisław Wildstein, who initially admitted that he was the person responsible for leaking the database. The data-sheet was compilation of about 162 thousand entries consisting of names and signatures, without additional information – but an accompanying (apparently true) rumor stated, that the database contains signatures of case-files of SB's informants, personal files of the SB and military security services' officers. The database covered only Warsaw's IPN's resources, and did not contained data concerning operative case-files, records of foreign intelligence and military security services. The “List” attracted great publicity and raised a lot of questions about the contents of the IPN's archive and, above all, about the vast amount of information previously unknown to the general public. The immediate effect of the leak was an adjustment to the IPN Act, forging a “fast lane” for people who wanted to check whether the case-files listed in leaked database with names identical as their own refer in fact to them.

The dismissal of military intelligence and counterintelligence agency (Wojskowe Służby Informacyjne, WSI) in 2006 – following the apparent dysfunction of service and serious criminal allegations against it's officers – unveiled the deceitful conduct of the WSI towards the IPN. The WSI was in charge of numerous records of former communist military intelligence

and counterintelligence agents, directly listed in the IPN Act as belonging to IPN's archive – and therefore under mandatory transfer. Those records were not transferred to the IPN and not even reported. The WSI purposely hid those files in their documentation repositories as “non-archival paperwork” prepared for weeding, in order to pretend that those records were not files required by the IPN, and to avoid putting them into their own archival unit (where such files could be identified and requested by the IPN). The WSI also restricted a great number of former communist military security service's files that already been seized by the IPN, practically rendering them inaccessible for people affected, the press and researchers.

CURRENT STATUS

The main archives holding the collections (collection holding institutions, CHI) of the former communist regime in Poland are:

- Archiwum Akt Nowych (AAN, Central Archive of Modern Records) – the main state archive holding the records of the central institutions existing after 1918, i.e. holding the archives of the communist party, central government bodies, censorship office, and other institutions of country-range importance.
- Instytut Pamięci Narodowej (IPN, Institute of National Remembrance) – holding archives of the former security services (security service, military security services, military foreign intelligence), counterinsurgency troops, border troop reconnaissance unit files, and selected files of the judiciary and penitentiary bodies.
- Wojskowe Biuro Historyczne (WBH, Military Historical Bureau) – the body supervising the military archives holding resources of Army HQ, Committee for the Defence of the Country, military political directorates, military political academies.

The records of local party committees, local government branches, especially district censorship offices are held in local state archives. Records are accessible according to state archives regulation, in a simple and unaffected way (information about rules for access to the AAN is available at address: <http://aan.gov.pl/p,62,zasady-udostepniania>). Information on records kept in the state archival net is available on the Head's Office of State Archives database internet search engine “SEZAM”: <http://baza.archiwa.gov.pl/sezam/sezam.php>. Another search engine of the state archival net (with access to the digital repository) is also available on internet: <http://www.szukajwarchiwach.pl/>. Detailed finding aids kept in the AAN and other state archives are available in reading rooms.

The records of the former communist security services are available at the IPN's central archive in Warsaw and in 17 local branches. Access to the files is granted to people affected (and their relatives), journalists, researchers, and – with some restrictions – for functionaries of the former regime. The files of public personalities are accessible – by a separate proceeding – for every citizen. Access to files are provided after filing a formal application. Information on the access proceedings and application forms are available on internet: <http://ipn.gov.pl/pl/archiw/udostepnianie/rodzaje-realizowanych-w>. Information about the IPN's resources is published in the internet archival inventory: <http://inwentarz.ipn.gov.pl/>; although the internet inventory contains only a part of archival database (constantly updated), the full version of the database is available for researchers in IPN's reading rooms. A brief information about the resources

of the central branch of the IPN' archive is available on internet: <http://ipn.gov.pl/pl/archiw/zasob/31562,Informacja-o-zasobie-archiwalnym-Archiwum-IPN-w-Warszawie-Centrala.html>. Another tool that provides the information to the public about the contents of the IPN's archive, are the Internet catalogues of the IPN's vetting unit (Biuro Lustracyjne, BL, Lustration Bureau). Accessible on-line database (<http://katalog.bip.ipn.gov.pl/>) consist of four lists ("catalogues"): the catalogue of leading functionaries of state and party during communist rule, the catalogue of security services officers, the catalogue of the vetted public personalities, the catalogue of people affected by dealings of the communist secret services. All of the catalogues contain information about files and registry entries concerning the people listed.

The WBH is a body supervising military archival network, i.e. the most important archives are: Centralne Archiwum Wojskowe (CAW, Central Military Archive) in Warszawa-Rembertów, Military Archives in Nowy Dwór Mazowiecki (Archiwum Wojskowe, former Archiwum Ministerstwa Obrony Narodowej, AMON, Archive of Ministry of National Defence), Toruń, Oleśnica and Archive of the Navy in Gdynia. Both the CAW and the AW in Nowy Dwór have published their inventories, and finding aids are available in the reading rooms. Information concerning access, rules for the CAW are available on-line, as well as brief information about the CAW resources. A brief directory of finding aids for the AW in Nowy Dwór Mazowiecki is also available on-line.

The records of the Ministry of Foreign Affairs from communist period are available in the archive of the ministry (Archiwum MSZ). Inventories are not accessible on-line, A brief descriptions of resources is published on the Ministry's website.

The private papers of some of the prominent communist personalities are kept in the Archiwum Dokumentacji Historycznej PRL (since 2011 governed by Akademia Humanistyczna in Pułtusk); a brief description of the contents of the archive is available online.

One of the most important collections of documents concerning communist rule in Poland is kept by the non-profit organization Ośrodek Karta (est. 1984 as underground documentation center). Karta runs the Opozycji (Opposition Archive) and Archiwum Historii Mówionej (Oral History Archive) collections, containing a huge volume on Solidarność records, MSW documents, opposition activists' papers and recordings of history witnesses' testimonies. The description of the collections and detailed finding aids are available online.

Nearly two decades of open archives policy resulted in the boosting of research and a broad use of data from the archives in public life. Since 2001, the IPN has published more than 1700 books, and publishes the editions of three scientific and two popular-scientific journals. The information from archives is still widely used in the vetting ("lustration") proceedings. Archival research has been irreplaceable for the recent efforts in identifying mass graves and the bodies of the victims of the communist regime.

LESSONS LEARNT

The conclusions from the Polish experience concerning dealings with the communist regime archives may be divided into two categories: conclusions concerning the legal system, and conclusions concerning practical solutions.

One of the flaws of the Polish legal system concerning the democratic transition period was the respect for the formal rules of communist law. The communist legal system was illegitimate, in its core; its norms were promulgated in the form of laws by unelected (or "elected" in falsified or mock elections) bodies. In fact, the communist regime, although very committed to the formal shape of its dealings, was in fundamental denial of the concept of the rule of law, and its legal system and laws were only a facade for the party's dictatorship. Communist "laws" and "acts" should be applied in the transition period with regard to their existing and presumable consequences, and their pre-1990 results should be judged after their impact on national, social, and individual interest, and respectively declared void, temporarily valid or valid. The post-1990 Polish praxis did not contain such procedures or evaluations; the validity of laws and acts of the communist period were sustained or judged in accordance with the then binding constitution (also communist, and promulgated by an illegitimate body). The possible adjustments to the legal system were consequently and intensively voted, but the consequences of communist rule were to be challenged as legally binding. This circumstance refers not only to matters of the former regime archives, but also to a vast number of social issues, i.e. restitution of property seized by communist authorities. The main problem that emerged due to respecting the legality of communist activities, and the regard for the archives of the communist regime institutions, was the matter of the validity of the secrecy classifications. It took more than a dozen years of transition to lawfully declare the secrecy classifications from communist period void – and only in relevance to the records seized by the IPN. The positive lesson was that even in such an unfriendly legal environment, institutions and laws needed to deal with the communist past were established, and former regime regulations were successfully overran. The lawmakers in the series of acts and enactments clearly decided that the settlement of communist rule must prevail regarding the particular interests connected to the respect of the secrecy classifications or personal data protection. The core reason for such achievement was the political will to remove the impediments to free speech, to challenge the legacy of former regime, and to change the state's system from post-communist to democracy.

The practical experiences of the Polish dealings with the archives of the former regime were followed legal and political circumstances. The precautionary policy of the first non-communist coalition (1989–1991) and of prime minister Tadeusz Mazowiecki (summarily called "policy of a thick line", dividing the communist past from the democratic present and future, but was also widely understood as an informal amnesty for the former, led to the keeping of the communist generals Czesław Kiszczak and Florian Siwicki, as ministers of internal affairs and national defence. They had apparently ordered or protected the mass destruction of documents of the security services. The parliamentary intervention, subsequent deposition of abovementioned ministers, and the dismissal of the communist secret services in 1990 stopped the destruction of archives. In the beginning of 1990, the government was also very reluctant, or self-restricted, towards the process of the disintegration of the communist party; the lawful measures allowing the takeover of party's assets (archives included) were issued, but only the self-dismissal of the party enabled the seizure of its archives and other property. However the archives were seized quickly and successfully, the forfeiture of party's other property became long, difficult and inefficient process.

A rather unsatisfactory experience concerning the regime archives was the result of the process of the forming of the new security services. Two agencies were in charge of the archives of the dismissed communist secret services, and assumed its contents were of secret operative assets. This led to the long-term restriction of access to the archives. The security services, as collection holding institutions, practically, unilaterally decided on the sequence, contents, legal status, and description of records transferred to the IPN. Another result was the creation of the “restricted resource” in the IPN’s archive – that wouldn’t probably have existed, if former security services archives were not treated as operative assets of the new security services. The cases of continued use of some registry tools, or records and card-indexes resulted in the restriction of its contents, that required sanitization before declassification. The case of the WSI dismissal in 2006 shows that the military security agency hid some records from the IPN and restricted access to many of the records already transferred. In the years 2010–2017, a great number of files initially placed in the “restricted resource” were reviewed, and finally released and declassified. The activities connected to the abolishment of the “restricted resource” revealed a vast amount of records that apparently were restricted without any important reason, and subsequently withheld from access for a number of years.

The secret services passed the records to the IPN’s archive in a number of separate series. The IPN’s archive was then shaped after the sequence of transfers (the transfer protocols were treated as internal finding aids, and its numbers became archival signatures); the original structure of the former communist security services archives was not reconstructed.

The mass destruction of the former communist security services archives (including the erasing of entries in the electronic databases) resulted in a lack or deficiency of evidence concerning numerous crimes by the regime and damages suffered by people affected. The subsequent investigations, access and vetting proceedings were thwarted, or needed additional effort to reveal the activities of the communist secret services. The sustaining secrecy of archives meant that people affected by communist crimes were denied access to vital information.

Another experience is connected to the governing of the archives. The seizure of the archives by an independent institution is not identical with instant access. The legal terms of access are vital for the general public; limitations of access to the files caused by prolonging proceedings, restrictions caused by sanitization (“anonymisation”) or secrecy clauses are significant impediments for people affected and public opinion.

The recognition of contents, and the structure and history of resources is key to efficient access proceedings. The “elaboration of archival fonds”, i.e. arranging of files in the fonds, conservation work, preparation of finding aids and indexes, research of fonds structure and history, digitization needs time, skilled personal, equipment, and money. The secret services run their archives with a strict connection to the card-indexes or electronic databases – which should be used as an independent sources of information and indexes for the archival fonds until the moment of the preparing of the proper finding aids. The IPN’s experience with providing access to the files for numerous applicants in the course of elaboration of the acquisitioned records are generally positive, i.e. the IPN archive managed to provide access to the claimants, researchers and the press; nevertheless, the priority for providing access and acquisition of archival fonds required a substantial effort by the employees (especially those working

with the card-registries), and intensive declassification proceedings slowed down the elaboration of archival fonds.

One of the most important issues of the archival work, especially when a part of the resource or its original finding aids are restricted, or partially unavailable is digitization of the archival resource. The term includes the arranging of electronic finding aids and indexes, and the scanning of the original finding aids, indexes, card indexes, registry instruments, single documents, and whole files and collections. The IPN and the state archival network constructed these databases, although not inter-operative, and in the case of the IPN, only partially available for the general public (although much more detailed). The IPN’s efforts to integrate the digitized original card indexes with the electronic finding aid system provided a powerful archival tool, significantly boosting the efficiency of work.

The general risk related to the use of the former security services archives is the disclosure of information of a sensitive nature. The IPN was exempted from general rules concerning personal data protection; however, these matters are considered significantly important. The employees of the IPN are obliged to keep secret everything they are acquainted with, except for matters of scientific research. The responsibility for the disclosure of sensitive information lies with the people (victims, researchers, journalists) who were granted access to the files; it is assumed, that the Institute bears no responsibility for the contents of records made by the former security services.

In a difference to the BStU, the IPN has only limited experience with the reconstruction of destroyed or damaged records. There is no virtual reconstruction program similar to the German one (it must be noted, that such program is very expensive). The IPN’s branch in Katowice leads the advanced effort of manual reconstruction to a significant number of restored files.

RECOMMENDATIONS

The general recommendations and expectations towards dealing with the archives of former repressive regimes were covered in the so-called Quintana Report of 1995 (redacted in 2009), which also covered the Polish experience (see: Further reading).

Some legal solutions should be recommended:

- Dealing with the regime archives in a democratic transition needs a stable legal environment, providing in the first place the right to free, unrestricted access to the archives for victims of the regimes, parliamentary and judicial bodies, and researchers and the press.
- The seizure of the archives of the former security services, government bodies, military units, courts and penitentiary institutions, coercive and repressive institutions, and other organisations, especially parties, companies, paramilitary groups, must be legally secured.
- The security classifications concerning the documentation of the former regime must be declared void. Access to archives cannot be restricted due to the security classification without independent review and without important reasons.
- The rules concerning personal data protection regarding the contents of regime archives should be relaxed to maximum reasonable extent. The limited right to protect sensitive personal information should be granted to victims of the regime only, provided that it would not harm eventual investigations and judicial proceedings.

- The regime archives should be held in a separate institution, independent from executive powers (especially law enforcement and security agencies), possibly under direct parliamentary control.
- The legal system should provide penal measures against people who destroy, hide or withhold, damage, records, registries, and assets of the former regime secret services and other organisations.

Practical recommendations and observations:

- at the early stage of the transition, the documentation of the regime institutions, i.e. current office paperwork, registry tools (as diaries, logs), archives, registries, card-indexes, microfilm and microfiche collections, and data systems should be carefully secured, at the original premises when possible. Any attempts to steal, burn, flood, scatter or damage the records, registries, data carriers should be prevented. When possible, photographic coverage of *in situ* situation should be provided.
- How to find the secret archives? The archives and card indexes are usually kept in cellars and attics, in rooms without windows (or with windows secured with dense grill and blinds), and with fire-resistant doors. Additional fire and flooding protection devices, as well as air conditioning (files should be kept in stable temperature and in low humidity) are often seen there. Vital IT installations are often housed in rooms without windows, with additional power supply and special fire protection systems. Pay close attention to metal lockers, locked single rooms, and caches.
- Former regime functionaries should not gain access to the premises where records are secured. The theft or destruction of any part of the registry or data system might be fatal to the whole collection. Conceal vital evidence against harm for later investigations and judicial proceedings.
- The remains of shredded, torn, damaged or scattered documents, data carriers, computers must not be disposed of, but should be preserved and described with regard to the exact place of recovery: building, room number, locker, possible unit of origin; Shredded, torn, partially damaged or mixed documentation (data carriers) can be reconstructed or arranged later (with use of technical measures unavailable on spot).
- Wet, fragile or fungus infected records should be kept separately (wet frozen) and as soon as possible undergo conservation, disinfection.
- The electronic data carriers should be technically secured. The carriers' contents (data, metadata and software) should be backed up to a second or multiple safety data carriers. Written manuals, handbooks, notes, instructions for handling data systems and printouts should be secured as well as the computers, data carriers, and other devices.
- Microfilm/microfiche should be secured, as well as the readers, and other reading devices, registry and archival machines

(i.e. rotomats, index-lockers, perforation readers), communication, and encryption devices. Those devices may be unique, or very difficult to replace.

- Secure the seized records, indexes, books, logs in their original state and form. It will later help to attribute the seized documentation to the proper part of archival fonds, unit of origin, and connection to other records and registry aids.
- Do not rearrange or mix the secured card-indexes and document collections – even if such rearrangement (for example, in alphabetical order) would provide some practical gain. Do not dispose of file covers or envelopes, binders, tags, labels.
- Even seemingly the most inferior documentation (untitled logs, officers' personal diaries, minor card-indexes with anonymous data, accountancy records, attendance lists, deployments documentation) might be of vital relevance, especially when other parts of the archive or registry were damaged or destroyed. The complexity of the secret services and government bodies means that important information was noticed in numerous places. The registry systems were often compilations of numerous data sub-systems, card-indexes, and logs that provided full information only when complete. Securing of office paperwork is vital for later investigations concerning the dealings of regime functionaries, and the fate of victims (and even their place of burial).
- The records of the former security services cannot be handled solely by the new security services; it may lead to a merging of old and new registries and case-files and the subsequent continuous secrecy of the archive. Resources important to the new secret services can be separated, when needed, but it should stay under independent control and be catalogued (even if the secrecy of resource would be required).
- Access to the regime archives should be provided as soon as possible. Limitations or restrictions to access will inevitably raise suspicions about the contents of the resources or its presumed mishandling.
- The arranging of seized resources and archival research should be started as soon as possible. The restoration of the original scheme of the archive and registry should ease access proceedings and enable the assessment of eventual losses and damages. The research of contemporary instructions, manuals, internal norms (concerning operative proceedings, registry, secrecy measures, and organisation schemes) of the former security services is key to the reconstruction of the resource scheme, and for explaining the documentation's contents to people granted access to the files (especially investigators).
- Simultaneously to the arranging of the resource, an independent digital finding aid should be completed, enabling efficient inquiries and analysis of the resource structure. The digital finding aids should be accessible on-line.

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LUSTRATION

RADOSŁAW PETERMAN

Reckoning with the totalitarian past is one of the fundamental elements of the political transformation of every country going out of a totalitarian dictatorship. This issue was also faced by Poland, once the communist era ended. Janusz Kochanowski, Polish Ombudsman [*Rzecznik Praw Obywatelskich*] (2006–2010), noted that since the beginning of the Third Republic of Poland, i.e. from the early 1990s, in the public debate, what was weak “... were voices calling for decommunization, delegalization of the communist party, and the punishment of those guilty of communist crimes was an issue that was rarely raised. What was much louder was the slogan of the ‘thick line’¹ or the idea that ‘one should support the logic of reconciliation rather than the logic of justice’” (J. Kochanowski, *Rzeczpospolita samorządna*, published by LexisNexis, p.128). This type of attitude was represented not only by the political commentators but also by the so-called “Solidarity” decision-makers, especially within the Ministry of Internal Affairs. It was often said that an attempt to clarify the past could start a new wave of mutual accusations and allegations. For those people, trust and forgiveness was more important than seeking the truth. It is significant that such views as to the logic of reconciliation rather than the logic of justice refer only to communist crimes.

Reconciliation with the past in Poland has encountered various obstacles and resistance from some backgrounds. Lustration arouses particularly resistance. Lustration, which can be understood both as:

Firstly – a procedure intended to disclose the fact of working or cooperating with the security authorities of the communist state;

or, secondly, a system of legal remedies used by state authorities to prevent persons related to the communist regime from occupying important public posts.

In Poland, what was advocated was lustration as a procedure of disclosing the service, work or cooperation in the security authorities of the communist state of the People’s Republic of Poland.

In the summer of 1991, during the preparation for the first free elections to the Sejm, the Parliament began a discussion on lustration. As a result thereof, on 19 July 1991, the Senate of the Republic of Poland adopted a resolution calling on the Government of the Republic of Poland to “*make the Minister of Justice (the Attorney General) verify whether candidates running for the Sejm or the Senate are included on the lists of employees or associates of former public security authorities or special military services, and to make this fact public in relation to those candidates where this was the case.*”

The first legal act introducing the lustration was a resolution of the Sejm put forward by MP Janusz Korwin-Mikke on 28 May 1992, which instructed the Minister of the Internal Affairs to disclose the names of MPs, senators, ministers, regional governors, judges and prosecutors who used to be secret agents of the Security Bureau [*Urząd Bezpieczeństwa (UB)*] or the Security Service [*Służba Bezpieczeństwa (SB)*] between 1945–1990 (MP 1992.16.116). The resolution did not apply to military

collaborators of the special services.² On the very same day, a group of deputies filed a complaint with the Constitutional Tribunal [*Trybunał Konstytucyjny*] for the resolution. On 4 June 1992, Antoni Macierewicz, the existing Minister of the Internal Affairs, presented a list³ of persons registered in the archives of security intelligence as secret agents of UB and SB in the Sejm. Contrary to the Sejm resolution, the list did not include the names of regional governors, judges and prosecutors.⁴ The list included the names of the then President of the Republic of Poland, Lech Wałęsa and the then Speaker of the Sejm, Władysław Chrzanowski and about 60 Members of Parliament from almost all parliamentary groups. On the very same day, on the initiative of the President of Poland Lech Wałęsa, the Sejm adopted a resolution to dismiss the government of Jan Olszewski.

The Constitutional Tribunal ruled that the activities of Minister Macierewicz, in connection with the resolution adopted by the Sejm, were not in compliance with the Polish legal system, i.e. the Constitution of the Polish People’s Republic, which had been in force since 1952. The Constitutional Tribunal had no doubts that the obligation to disclose persons who were secret agents concerned those who wanted to perform or perform public functions, however, it was not specified what is and what is not a public function. Nor was the term of “cooperation”, essential for the whole process of lustration, defined. The adoption of the resolution was suspended pursuant to the *Announcement of the President of the Constitutional Tribunal of 19 June 1992 on the suspension of the resolution of the Sejm of the Republic of Poland of 28 May 1992* (M.P. 1992.20.157) with effect from 19 June 1992, while it was repealed on 20 October 1992 by virtue of *Announcement of the President of the Constitutional Tribunal of 20 October 1992 on the effectiveness of resolution of the Sejm of the Republic of Poland of 28 May 1992* (M.P.1992.34.245).

1 The expression “thick line” – a political slogan derived from the Prime Minister Tadeusz Mazowiecki’s speech delivered at the Contract Sejm on 24 August 1989. He said: “The government I will create shall not be liable for the mortgage it inherits. It does, however, affect the circumstances in which it shall act. We shall draw a thick line between the past and the present. We will only be liable for what we have done to bring Poland out of the present state of collapse.” At present, the term “thick line” is associated in the social consciousness with tolerance for former political leaders of the People’s Republic of Poland and the security services reporting to them.

2 At the time of the drafting of the resolution, the military special services were omitted as a result of the rapid work concerning the parliamentary resolution on lustration

3 The prepared list was not the first one. Already in July 1989, just after the June parliamentary elections, under the command of Undersecretary of State of the Ministry of Internal Affairs, General Henryk Dankowski a list of agents elected to the Parliament was created at the Ministry of Internal Affairs. This archive (numbered 560) was soon lost. One of the inspectors thereof was the head of the Ministry of Internal Affairs Andrzej Milczanowski, the other one was the subsequent Minister of the Internal Affairs Henryk Majewski. Both had publicly questioned the credibility of the documents of the former SB

4 The short time of the drafting of the Sejm resolution made the team responsible for preparing the information about regional governors, judges and prosecutors have no time to prepare it.

On 17 June 1992, the Senate began work on a new bill on the conditions of occupation of certain positions in the Republic of Poland, which was adopted by the Senate on 28 July 1992. The Senate's bill contained a catalogue of positions which required the lustration procedure to be conducted (Article 1)⁵ and defined obstacles preventing some positions from being occupied (Article 3).⁶ The procedure essentially relied on the appointment of a para-court body, a Board of Appeal by the President of the Supreme Court, who would review appeals to certificates issued by the Ministry of Internal Affairs in the manner regulated by the Polish Code of Administrative Procedure. In September 1992, five other lustration bills were sent to the Sejm, which were delegated to the Sejm committees, where they quietly waited until the end of the term, i.e. 31 May 1993, and ended their life. The issue of lustration case was abandoned for several years because the post-communist party – SLD – won the parliamentary election and was not interested in lustration and decommunization.

Between 1994–1996 five bills concerning lustration were submitted to the Sejm. These bills were considered in 1996 by the Extraordinary Committee to consider lustration bills. It was only on 11 April 1997 that the first Polish lustration law was passed. This Act was entitled “The Act on Disclosure of Work or Service in State Security Authorities or Cooperation with State Security Authorities between 1944–1990” (Journal of Laws 1997.70.443). This happened one year after Resolution 1096 of the Plenary Assembly of the Council of Europe on measures to dismantle the heritage of former communist totalitarian systems. The Polish lustration law of 1997 was based on the following assumptions:

- lustration was limited to persons performing public functions; the persons performing public functions within the meaning of the Act included, among others, the President of the Republic of Poland, MPs, Senators, Members of the European Parliament, persons appointed to the leading positions of the State, the Head of the Civil Service, General Directors in ministries, central offices or regional offices, judges, prosecutors and lawyers, rectors, deputy rectors in state and non-state universities, the directors of channels and directors of the regional centres and agencies of the Polish Television and the Polish Radio;
- the persons covered by the lustration were to submit so-called lustration declarations in which they were to declare possible service, work or cooperation with the security authorities of the People's Republic of Poland from 22 July 1944 to 10 May 1990;
- the lustration declaration was made at the time of granting consent to standing for election or to accepting a public function;
- the declarations were not to be made by persons born after 1 August 1972;
- the content of the declarations in which the person admits to working, cooperating or service was to be made public by being posted in the Monitor Polski [Official Gazette of the Government of the Republic of Poland];
- the declaration's disclosure of information on the service, work or cooperation with security authorities was not to result in any negative effects on the person subject to lustration;
- in order to verify the lustration declarations, the position of the Commissioner for Public Interest [Rzecznik Interesu Publicznego] was created, and Bogusław Nizieński, Supreme Court Judge Emeritus was the first person appointed to hold this position;

- the obligations of the Commissioner for Public Interest included conducting investigative proceedings and, if necessary, submitting motions to the Court for a lustration lie to be ruled;
- should a declaration be ruled to be a false one, this information was to be made public – it was to be announced in Monitor Polski. The result of such a lustration judgment was also the loss of moral qualifications relevant for public positions. The person submitting a false declaration was to be called a lustration liar.

Almost from the very beginning the judges tried to paralyze the lustration since the General Assembly of Appellate Courts in Poland did not select 21 judges who, according to the law, should hear lustration cases. As a consequence of this attitude of the judges, the Sejm had to amend the law and, as a result of this amendment, the Court of Appeal in Warsaw was established as the lustration court.

In the end, the Commissioner for Public Interest began his activities from 1 January 1999. At that time, about 26,000 lustration declarations were received at the Commissioner's Office. 200 declarations in which their signatories admitted to service, work or cooperation with security authorities were to be published as positive ones. The Commissioner for Public Interest submitted more than 150 lustration declarations to the court to initiate lustration proceedings. In the period 1999–2004 the lustration court ruled that 63 declarations included the so-called lustration lie, which resulted in the ban on holding public functions.

The passing of the 1997 Lustration Act also resulted in the creation of the Institute of National Remembrance – the Commission for the Prosecution of Crimes against the Polish Nation by virtue of the Act of 18 December 1998, which, by law, had taken over archival documents produced by the communist security intelligence – both civil as well as military ones – from the Polish security intelligence. This solution enabled the documentation of communist security intelligence to be gathered in one place in an institution not dependent on the government and subject exclusively to parliamentary control.

This lustration act remained effective until the end of 2006.

Following the parliamentary elections in 2005, the Sejm passed a new Act of 18 October 2006, entitled “*on the disclosure of information on the documents of the state security authorities from 1944–1990 and the content of these documents*” (Journal of Laws 2007.63.425 as amended). The preamble to the act reads as follows:

“We declare the work or service in the security authorities of the communist state or the aid given to these authorities [by the personal information source] consisting in combatting the democratic opposition, trade unions, associations, churches and religious associations, violation of the freedom of speech and assembly, violation of the right to life, liberty, property and security of citizens, to be permanently linked to the violation of human and civil rights for the benefit of the communist totalitarian system.”

5 The catalogue of positions included, among others, the following functions: MP, senator, local councillor, executive positions in the leading, central and local administrative bodies, judges, prosecutors, notaries public, lawyers, legal counsellors, soldiers and officers of the rank of colonel and generals in the Armed Forces, the Police, the Fire Service and the Prison Service.

6 The obstacles preventing a position from being occupied included service in the security authorities of the communist state, cooperation with these authorities, taking up positions in the Polish Workers' Party [Polska Partia Robotnicza, PPR] or the Polish United Workers' Party [Polska Zjednoczona Partia Robotnicza, PZPR].

Bearing in mind the above, as well as the need to ensure that the functions, positions and professions that require public trust should be held by persons who given their past conduct give and have given the guarantee of honesty, nobility, sense of responsibility for their own words and deeds, civil courage and righteousness, and in view of the constitutional guarantees ensuring that citizens are entitled to information on persons performing such functions, occupying such posts and performing such professions (...)"

This act expanded the list of public functions holding of which involved the lustration obligation. The persons who perform public functions within the meaning of the Act include, among others, the President of the Republic of Poland; Members of Parliaments, senators, Members of the European Parliament, top state officials, Members of the Monetary Policy Council, members of the Management Board of the National Bank of Poland, members of the Council of the Institute of National Remembrance, President of the National Health Fund and the deputies thereof, President of the Social Insurance Institution and the deputies thereof, President of the Agricultural Social Insurance Fund and the deputies thereof, Chairman, Deputy Chairpersons and members of the Financial Supervision Authority, members of the foreign service, persons appointed or nominated to the positions by the President of the Republic of Poland, the Sejm, the Presidency of the Sejm, the Senate, the Presidency of the Senate, the Sejm and the Senate, the Speaker of the Sejm, the Speaker the Senate, or the President of the Council of Ministers, Presidents of Courts; judges and prosecutors; heads of the public prosecutor's office or military unit of the prosecutor's office, members of local government, rectors and deputy rectors of state or non-state higher education institutions, directors of channels and their deputies, editors or authors of news or political shows and directors of local branches and agencies of "Telewizja Polska – Spółka Akcyjna" [*Polish Television*], "Polskie Radio – Spółka Akcyjna" [*Polish Radio*], director general of the Supreme Audit Office and the staff of the Supreme Audit Office supervising or performing inspections, persons holding managerial positions: in offices of public authorities, including central and central authorities of state administration: director of a department or an equivalent unit, deputy director and head of a department or an equivalent unit, in governmental administration in the regions: the director and deputy director, the head of the service, inspectorate, the deputies thereof, the staff of the Institute of National Remembrance, treasures of a region, county or municipality, secretaries of a county or municipality, the general director of Poczta Polska [*Polish Mail*] and the deputy thereof and member of the Council of Poczta Polska, members of the management board, members of the supervisory boards of state banks, directors and deputy directors of state enterprises, academics and higher education staff, state and non-state school directors, lawyers, legal counsels, notaries public; court enforcement officers, professional soldiers occupying positions of colonels (commanders) and generals (admirals).

Pursuant to the original version, the new lustration act required persons who applied for the aforementioned functions or held them at the time of the act becoming effective to submit an officially certified statement on the existence of documents of security authorities in the Institute of National Remembrance archives. The certificate was to be issued solely on the basis of documents. In addition, criminal proceedings in the manner of criminal proceedings were not to be conducted as regulated by the 1997 lustration law. The certificate could be appealed against to the court. The court was to conduct proceedings

based on the provisions of the Polish administrative procedure and not the provisions of the criminal procedure as previously provided for. However, this version of the law did not enter into force because the then President of the Republic of Poland Lech Kaczyński disagreed with this model of lustration and as a result of his own legislative initiative the law was amended in 2006.

The lustration bill, put forward by the President of the Republic of Poland Lech Kaczyński, the lustration model was yet again based on the criminal procedure. For the purpose of its implementation the prosecutor's lustration section was established in the structures of Institute of National Remembrance. The criminal departments of the common courts of law retained the right to adjudicated the non-compliance with the truthfulness of the lustration declarations. On the other hand, the scope of the persons obliged to submit a lustration declaration remained the same as in the original version of the lustration act of 2006. The amended lustration law was still subject to the review of the Constitutional Tribunal, which did not raise objections to the essential form, i.e. the necessity of such a law being in force (Judgement of the Constitutional Tribunal of 11 May 2007, case file K 2/07). This law came into force at the beginning of 2007.

The current balance of the 2006 Lustration Act 2006 (as at 31 December 2016) is as follows:

More than 375,000 lustration declarations were submitted to the Lustration Bureau from 2007 to the end of 2016. Approximately 2,500 people admitted to work or cooperation. Approximately 60,000 declarations made by public officials or applicants as to their cooperation (or work) with the security authorities of the communist state or lack thereof were verified. Of these verified declarations, prosecutors questioned the veracity of almost 850 lustration declarations which were submitted to courts with a request that the courts rule that the persons referred to in these requests have filed untruthful lustration declarations by concealing their cooperation or service in the security authorities of the communist state. In more than 500 cases the courts validly and finally ruled that the persons subject to lustration concealed the fact of their cooperation (or work).

It should also be stressed that, in view of the lustration in Poland, the body of judicial decisions (of the Constitutional Tribunal and the Supreme Court) worked out the standards still in force, according to which, in order to accept that one's conduct could be classified as cooperation with the communist security intelligence, it should be proven that:

- 1/ the person in question contacted with the state security authorities and provided them with information;
- 2/ the contact of such person with representatives of the state security authorities had to be a conscious one, i.e. the person was aware of contact with a representative of the communist security intelligence;
- 3/ the contact of such person with security intelligence had to be of secret nature;
- 4/ the person's actions were to consist in operational acquisition of information;
- 5/ the conduct of the person could not be limited only to the declaration to cooperate, but should be materialized in particular actions for the benefit of the communist security authorities.

An additional new element introduced by the 2006 Lustration Act and the amendment to the Act on the National Remembrance Institute (IPN) of 2006 (Journal of Laws 2006.63.424, as amended) is the necessity to publish, on the website of IPN, electronic catalogues containing information on the retained public records

of persons holding such positions as: President of the Republic of Poland, MPs, senators, MEPs, ministers, judges of appellate courts and the Supreme Court, appellate prosecutors, mayors. This catalogue refers to almost 5 500 posts.

In addition, the Lustration Bureau prepares and publishes thematic catalogues: of persons subject to surveillance and repressions (currently a list of almost 10,000 people subject to surveillance by state security authorities), of officers and soldiers of state security authorities (currently including entries for more than 62,000 persons) and of persons holding managerial positions in the party and state of the former People's Republic of Poland (more than 24,000 persons included).

Finally, it is worth reciting the arguments of lustration opponents:

- the dubious quality of the archives given their partial destruction;
- the threat of destroying political, cultural, religious authorities (e.g. the case of Lech Wałęsa);
- lustration as political adventurism in the use of files.

The then President (in 2006) of the Constitutional Tribunal, Jerzy Stępień, justified the reluctance to disclose the archives of former security intelligence of the People's Republic of Poland by saying: *"A man can be destroyed with real information much more effectively than with firearms. (...) The truth as such is not the highest value in our constitutional order (...) the highest value is dignity, not truth."*

One should, however, bear in mind Resolution 1096 of the Plenary Assembly of the Council of Europe *on measures to dismantle the heritage of former communist totalitarian systems* which reads in point 12: *"The Assembly emphasizes that in general, if several criteria were met, these measures [i.e. lustration and decommunization] may be considered compatible with the standards of a law-abiding democratic state."*

In conclusion, the following question remains to be answered:

Is lustration understood as a procedure for disclosing information about materials created by former security authorities of the People's Republic of Poland on persons performing public functions today a good instrument to reconcile with the totalitarian past? Or would it be more appropriate, as some advocate, to pour the archives of the Institute of National Remembrance with concrete for 50 years and forget about the past and thus give the opportunity for gossip, allegations and blackmail to arise.

LESSONS LEARNT

- Thanks to the lustration in Poland, many people who intend to take public offices resign from these positions due to their past.
- The lustration prevented public persons from being blackmailed with archival materials that were preserved in the Institute of National Remembrance.
- The lustration continues to be perceived by many of its opponents only as an element of political struggle.
- The hearing of lustration proceedings before criminal courts makes judicial proceedings continue for years, and the judgments issued by these courts are debatable. In such cases, there is talk of "court truth" which deviates strongly from "historic truth".

RECOMMENDATIONS

- The most important public functions of election and appointment should be subject to lustration.
- The lustrated persons should be able to verify their statements before the common courts of law.
- The lustration procedure should be public.

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INVESTIGATION AND PROSECUTION OF THE CRIMES OF THE REGIME

RADOSŁAW PETERMAN

After the collapse of communism in Central and Eastern Europe, new democratic governments had to handle the issue of reconciliation with perpetrators of repressions and human rights violation. Due to the complexity of the emerging problems, reconciliation with the past means adopting a deliberate policy with regard to the past, that is, planning and arguing a consistent catalogue of state activities relating to the history of public institutions, society and the legal system. The policy with regard to the past should strive to accomplish five basic goals: determination of the truth, imposition of punishment, moral condemnation, reparation for harm, cultivation of memory.

In Poland, prosecution of Stalinist crimes began in 1991. This was possible thanks to the transformation of the Main Commission for the Investigation of Nazi Crimes in Poland, which prosecuted Nazi crimes as of 1945 (initially under the name of the Commission for the Investigation of German Crimes in Poland) in the Main Commission for the Investigation of Crimes against the Polish Nation. It broadened the scope of action to include the prosecution of Stalinist crimes as crimes against individuals or groups committed by the authorities of the communist state until 31 December 1956 (Journal of Laws 1991.35.195). However, until 1998 the activities of the Institute of National Remembrance (IPN) did not produce tangible results. The reason for this was that the criminal proceedings followed a long way procedure, i.e. first the Institute of National Remembrance – the Commission for the Prosecution of Crimes against the Polish Nation prepared the case and then the prosecuting authorities prepared it again before referring the case to the court. The prosecution of Stalinist crimes got significantly prolonged. It was only after the amendment to the Act on the Institute of National Remembrance in December 1998 that IPN was able to be prosecute the cases more swiftly as IPN was then granted prosecution powers.

In spite of the passage of time, some officers of the Stalinist regime have been brought before the courts. In 1994, the Sejm condemned the “criminal activity” of Security Bureau [*Urząd Bezpieczeństwa (UB)*] and the Military Information [*Informacja Wojskowa (IW)*], responsible for the suffering and death of many thousands of Polish citizens. The most prominent trial of UB's officers was the case of col. Adam Humer, former head of the investigative department of the Ministry of Public Security [*Ministerstwo Bezpieczeństwa Publicznego (MBP)*]. In 1996 the Warsaw court sentenced him to 9 years of imprisonment for mistreatment of political prisoners between 1946–1954. In 1998, the court dismissed Humer's appeal, though for a formal reason the sentence was reduced slightly from 9 years to 7.5 years. Officials of the Military Information also stood trial. The first judgement against the IW officer was issued in 1998. The Military Garrison Court in Warsaw sentenced Wincenty Romanowski, 75, to 1.5 years of imprisonment for mistreatment of a prisoner in 1946. The court found the methods of the defendant not to have been nothing different from the methods of the Gestapo.

On the other hand, there has never been a judge issuing judgments as ordered by UB and IW or the Security Service [*Shużba Bezpieczeństwa (SB)*] that has been sentenced in a final and binding manner. Having remembered court judgements of the 1980s, and especially of time of the martial law, after 1990 voices were raised that all judges who had shamelessly disobeyed the principle of judicial independence in those times should be disqualified and have the right to practice the profession revoked. The disciplinary law applicable after 1990, however, could not be applied to the so-called *flexible judges* as disciplinary offenses are barred by limitation after just one year. Hence, legislative intervention was required. The first attempt to regulate the possibility of dismissing a judge for court crimes or servility towards communist authorities was made in 1993. On 15 March 1993, an act on the system of common courts of law was passed. Under the act, the President, at the request of the National Council of the Judiciary of Poland [*Krajowa Rada Sądownictwa (KRS)*], could dismiss a judge found by the disciplinary court to have disobeyed the principle of judicial independence. It was assumed that judges unable able to resist external pressure have mental deficiencies that prevent them from performing the profession. However, this solution was recognized by the Constitutional Tribunal as incompatible with the Constitution.

As a result of the reluctance of the judicial environment, another attempt to purge it was made only after four years. On 17 December 1997, the Sejm passed a law amending the act on the system of common courts of law and certain other acts. This time, yet again, due to formal shortcomings in the procedure of passing the amendment, the Constitutional Tribunal considered the law unconstitutional. This notwithstanding, the Constitutional Tribunal pointed out the validity of the final regulation of the problem consistent with the procedures: “By restricting the deliberations only to the period closed by 1989, it must be borne in mind that such abuses of independence occurred at that time, that there is still a need for their disclosure and clarification”, while “the general rules of the judge's liability, adjusted to the conditions of the democratic state, are not a sufficient mechanism.”

Ultimately, the problem was statutory resolved on 3 December 1998, when the law on disciplinary liability of judges who disobeyed the principle of judicial independence between 1944–1989. BY virtue of the provisions of the act, with regard to a judge who disobeyed the principle of judicial independence between 1944–1989 when adjudging in trials that constituted a form of repression for independence activity, political activity, defence of human rights or the exercise of basic human rights, the application of the statute of limitation was excluded in disciplinary proceedings concerning judges. This exclusion was not indefinite – it was determined that it would end on 31 December 2002.

In the period between the date of this law becoming effective until October 2001, 30 cases were submitted, 28 of which were

filed by the Minister of Justice, and only two were submitted by Disciplinary Proceedings Representative. The National Council of the Judiciary of Poland made no request. In all the cases as requested by the Minister of Justice the Disciplinary Proceedings Representatives clearly distanced themselves from the cases, indicating that they acted as instructed by the minister. All the cases concerned only about 50 judges, mostly retired, of whom only one was not a penal judge. In the course of proceedings as many as 41 judges had already been released from the charges they faced. Four cases were immediately returned to the Disciplinary Proceedings Representative, and in the case of the others, as a result of the investigation, it was not proven that the judge had disobeyed the principle of judicial independence.

The whole verification process showed shameless corporate solidarity, which undoubtedly was the main cause of its failure. The farce was enhanced with was the decision of the Supreme Court in 2010, which replaced the legislator by providing the statutory concept of communist crimes with a sense that in fact denied the existence of court crimes throughout the times of the People's Republic of Poland, including the Stalinist times. This resolution, criticised even within the Supreme Court, was issued against IPN's request to waive the immunity of former SN judge Zdzisław Bartnik, who showed full dependence with regard to communist authorities during the martial law.¹ The Supreme Court held that IPN's request was clearly unfounded and entered the resolution in the so-called book of legal principles, a remnant of the law of the People's Republic of Poland, disciplining other courts and thereby violating the principle of their independence.

The aforementioned resolution put an end to the verification of the justice system of the People's Republic of Poland, but it is not surprising if all the scandalous actions of the judges of the People's Republic of Poland in today's justice system are analysed, if one unveils the "dedication and determination" of the judiciary and the prosecutors' – which refers primarily to the older staff – with which they began to verify their ranks and purge them to remove judges compromised by their dependence with regard to the communist regime.

The results of the verification of the justice system of the People's Republic of Poland showed that all the judges of the communist period acted ethically and were independent. The activities of disciplinary courts showed something different than what was known in society. Disciplinary courts proved, in spite of the facts, the innocence of the judges. The negligence and omissions of the disciplinary courts while handling of the abovementioned cases were evident.

Another form of justice for those who used repression was the so-called "dezubekizacja" [*anti-security intelligence activities*].² The first attempts were made in the 1990s to reduce pension benefits provided to former officials of the repressive apparatus. The first law passed by the Sejm in December 1992 was vetoed by President Lech Wałęsa. The second act, dated December 1997, was vetoed by President Aleksander Kwaśniewski. Finally, *the Act on Amendments to the Pensions Act of Professional Soldiers and Their Families and to the Pensions Act of Officers of Police forces, Internal Security Agency, Foreign Intelligence Agency, Military Counterintelligence Service, Central Anticorruption Bureau, Border Guard, Government Protection Bureau, State Fire Service and Prison Service and their families* (Journal of Laws of 2009, No. 24, item 145) was passed in 2009. The law entered into force in 2010.

This law was first appealed against to the Constitutional Tribunal (TK) by a group of left-wing (SLD) MPs. The MPs alleged that the law made use of collective responsibility, punishment without trial and determining guilt, breach of the principle of trust in the state and protection of acquired rights, the principle of equality and the right to social security. TK expressed the belief that the withdrawal of uniformed pensions would constitute of the removal of the unfairly acquired privilege. In 2010, a group of former security officers of the communist state filed a complaint with the European Court of Human Rights (ECHR) on the aforementioned act. In 2013, in its decision, the ECHR considered that the reduction of the pension did not imply "excessive burdens on the applicants who did not lose their means of subsistence or total deprivation of benefits, and that the scheme was even more beneficial than other pension schemes". The ECHR reminded that the Security Service (SB) officers worked for a security apparatus modelled on the Soviet KGB, it compared the services of the People's Republic of Poland to the Stasi and the Securitate. Judges of the ECHR explained that working in the SB, designed to violate fundamental human rights protected by the Convention, should be considered as an important factor for the definition and justification of categories of persons to be subject to reduced pension benefits. The aforementioned act reduced the pension of about 25 thousand former civil security intelligence officers of the People's Republic of Poland and former members of the Military Council of National Salvation [*Wojskowa Rada Ocalenia Narodowego* (WRON)].

In addition, it should be noted that according to the Act on Institute of National Remembrance, all political killings committed in the People's Republic of Poland shall be subject to the statute of limitations in 2030 while all other communist crimes shall be subject to the statute of limitations in 2020. In 2010, the Supreme Court considered those crimes, which are punishable by imprisonment for up to 5 years, barred by the statute of limitations.

At this point it is worth pointing out that the Main Commission for the Investigation of Crimes against the Polish Nation, operating within the Institute of National Remembrance, completed more than 14,000 investigations, over 60 percent of which refer to communist crimes. Most of the investigations were conducted from the beginning with the knowledge that it would be impossible for the perpetrators to be brought before the court because of their death. But it is important to identify all the circumstances of the crime, the symbolic and legal dimension, as well as important reference materials for further historical research. IPN prosecutors submitted 326 indictments with regard to 508 people. Pursuant to these indictments courts have so far convicted 137 people.

1 Martial law in Poland between 1981–1983 – state of exception introduced on 13th December 1981 in the territory of the People's Republic of Poland in violation of the Constitution of the People's Republic of Poland. It was suspended on 31 December 1982, and was abolished on 22 July 1983. Throughout its course, a total of 10 131 Solidarity activists were imprisoned and about 40 people lost their lives, including 9 miners from the Wujek mine during the strike pacification.

2 Dezubekizacja – The concept of reducing pension benefits of former officials of the repressive apparatus. Dezubekizacja is a term colloquially called to refer to *the Act on Amendments to the Pensions Act of Professional Soldiers and Their Families and to the Pensions Act of Officers of Police forces, Internal Security Agency, Foreign Intelligence Agency, Military Counterintelligence Service, Central Anticorruption Bureau, Border Guard, Government Protection Bureau, State Fire Service and Prison Service and their families* (Journal of Laws of 2009, No. 24, item 145).

However, it must be stated that, due to the lack of a reliable and comprehensive reference of the legal system to the past, no thought-out policy with regard to the past was created in Poland at the beginning of the political transformation. Polish politics at the beginning of the 1990s lacked the will to accomplish the five basic goals with regard to the past: determination of the truth, imposition of punishment, moral condemnation, reparation for harm, cultivation of memory. They were gradually implemented, which is why it is not fully understood in society. On the other hand, former officers and their principals often argue that they acted in accordance with the then generally applicable law, which consequently excludes the possibility of holding them liable, including criminally liable, in any way. In addition, there are problems related to the statute of limitations, resulting in the discontinuance of criminal prosecution or the ineffectiveness of civil law claims. Another issue is the reluctance of law enforcement agencies to take action which is not only of legal but also political nature. Despite these reservations, it seems that the democratic state of law has an obligation to prosecute at least the worst crimes committed in the past. It also turns out that the actions taken repeatedly by officers of the state apparatus were acts which were not only contrary to the basic principles of human rights or international law but also to the law in force at that time. Unfortunately, in Poland no

decision has been made to adopt any of the models of treating the past accepted in the world.

LESSONS LEARNT

- Poland has started to prosecute Stalinist crimes fairly quickly.
- In order to effectively prosecute the crimes, a special body was created bringing together prosecutors appropriately prepared to conduct such cases.
- Undue pension benefits were taken away from people involved in political repression against citizens.
- In Poland, the judging environment failed to purge itself.
- Newly created security intelligence and law enforcement agencies heavily relied on people involved in the repressions against citizens.

RECOMMENDATIONS

- The countries in which democracy is restored should first verify the judicial environment and the prosecution authorities.
- What is important is also the effective prosecution of persons who committed crimes in the context of political repression.

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REHABILITATION OF VICTIMS

RADOSŁAW PETERMAN

Despite the lack of major controversy over the rehabilitation of people repressed for political reasons, the restoration of dignity and the redress for the victims through the legislature has encountered resistance until this very day. The Second World War dashed the plans to maintain independence, and after the war, the German occupation was replaced by the Soviet one. In the historical dictionaries of the People's Republic of Poland, the word *independence* was readily replaced by the concept of *liberation*. Admittedly, the Sejm adopted without much opposition in February 1991 a law on nullification of all the rulings granted to persons subject to repressions in the People's Republic of Poland for the activities aimed at the independent existence of the Polish State, and on the granting compensation for damage and redress for the suffered harm (Journal of Laws 1991.34.149). This law initially included persons who were subjected to repression by law enforcement and judicial authorities or out-of-court bodies operating in the present territory of Poland between 1 July 1944 and 31 December 1956 and within the territory of Poland within the limits set by the Treaty of Riga, during the period from 1 January 1944 to 31 December 1956, for activities aimed at the independent existence of the Polish State or because of such activity. The word *independence* used in this act caused controversy when it was decided to extend the law to include the time-limit thereof until 1989. Finally, the amendment of the law covered the activities of the anti-communist opposition until 31 December 1989, including those who were subject to internment as a result of the introduction of martial law in Poland on 13 December 1981. Three possible compensatory measures were introduced:

- compensation for the damage sustained;
- redress of the damage suffered;
- coverage, in whole or in part, of the cost of symbolic commemoration of a person unjustly repressed if his or her death resulted from the execution of a judgment declared invalid.

Article 1 § 1 of the above law considered *“judgments issued by the Polish law enforcement and judicial authorities or out-of-court bodies in the period from 1 January 1944 to 31 December 1956 to be invalid if the alleged or attributed act was related to activities aimed at the independent existence of the Polish State, or if the judgment was issued because of such activity, as well as judgments issued against resistance to collectivization of agriculture and compulsory agricultural supplies.”* However, this law requires a person harmed by the communist authorities to prove in a lengthy trial that the acts attributed to him/her, not constituting a crime, were a form of activity aimed at the independent existence of the Polish State. This situation often humiliated those people. The law enacted at the time constituted a specific legal prosthesis in the face of the assumed continuity of statehood between the People's Republic of Poland and the Third Republic of Poland, both from the point of view of international law and of internal law, resulting, for instance, in that in spite of the political transformation, the verdicts given by courts of the People's Republic of Poland did not lose their legal force and thus continue to function in legal transactions today.

Despite the fact that the law has been in force, not all the people have applied for the annulment of judgements given during the People's Republic of Poland for political reasons. Therefore, the Institute of National Remembrance together with the Supreme Bar Council undertook an action entitled “You have the right” under which lawyers provided free legal counselling to victims of the communist authorities.

Originally, the Act established only the obligation for the State Treasury to pay compensation and redress for the damage sustained as a result of repressions for the activities aimed at independent existence of Poland. The 2007 amendment added the decision of internment during martial law as a basis for these benefits to be paid out. This decision was the consequence of the need for consistent action of the law maker, as the law regulates the state's attitude toward citizens fighting for its independence and should cover the broadest possible range of forms of conducting independent activity.

The martial law introduced in December 1981 is one of the most important events in the history of modern Poland. It aroused great controversy and political-historical disputes. The founders of the martial law, led by General Jaruzelski, justified its necessity with the economic situation of the state and threat of an armed intervention from the neighbouring countries of Poland, of the so-called real socialism block. A thesis was proclaimed that martial law had been introduced in accordance with the law effective in the state and that it had been implemented in a humanitarian manner and without much loss to society. He was considered so-called a “less evil” solution protecting the public from the tragedy of a civil war or an armed intervention of foreign countries.

Those repressed during the period of martial law in Poland (1981–1983) rejected these justifications and found that martial law had been introduced in violation of the law in force contrary to the opinion of society, that it had been introduced not in the interest of Poland but of the USSR, that it had been a “war with the nation”, that it had been introduced in a very brutal way and had caused great personal and moral losses. After the election of the new parliament on 5 December 1991, the Parliamentary Club of the Confederation of Independent Poland [Konfederacja Polski Niepodległej] led by L. Moczulski accused the so-called authors of martial law and requested the Sejm to bring them before the State Tribunal under the charge of the martial law and its consequences. The motion included 9 senior officers of the Military Council of National Salvation [*Wojskowa Rada Ocalenia Narodowego* (WRON)] and 15 members of the 1981 Council of State [*Rada Państwa*]. The Sejm established the Constitutional Responsibility Committee to examine the validity of the motion. On 19 September 1993, new elections were held which brought the victory of the left-wing parties. The new Sejm changed the composition of the Constitutional Responsibility Committee. On 13 February 1996, the Commission decided, by means of the majority of 12 to 5 with 1 abstained vote, to request that the Sejm should discontinue the case. On 24 October 1996,

the Sejm approved the Committee's motion. It was not until more than ten years later that the Ombudsman [Rzecznik Praw Obywatelskich] requested, in a letter of 12 December 2008, that martial law be considered to have been introduced unlawfully. In its motion to the Constitutional Tribunal, the Ombudsman argued that the assessment of the constitutionality of the introduction of the martial law in 1981 was not irrelevant to social consciousness. Due to the fact that the victims of the actions of the communist oppressors had encountered obstacles and sometimes even blockage on their way to pursue their freedoms and rights in a democratic state of law, the Ombudsman decided to make it easier for victims of the totalitarian repression of the totalitarian state to pursue moral and legal redress and to render justice. It was also necessary, in the Ombudsman's opinion, to officially declare the unconstitutionality of these decrees, in view of the protection of constitutional rights and freedoms, as well as significant from the trial perspective for the judicial authorities to rule as to the possible liability of persons whose actions led to the issuance of these decrees. It should be noted, however, that the Ombudsman did not dispute the Decree of 12 December 1981 on the forgiveness of certain offenses and crimes (Journal of Laws, No. 29, Item 158), since the decree contained amnesty provisions which were beneficial for individuals within the scope of its activity. The Constitutional Tribunal stated that issuing a judgment on the constitutionality of the decree on martial law and the decree on special proceedings was necessary to ensure the protection of constitutional freedoms and rights.

After hearing the case, the Constitutional Tribunal, in its judgment of 16 March 2011, case file no. K 35/08, stated the unconstitutionality of the decree on martial law and the decree on special proceedings because of the lack of the Council of State's competence for the issuance thereof. The Constitutional Tribunal established that the adjudication as to the martial law decrees was necessary for the protection of constitutional freedoms and rights. It was aware, however, of the fact that many of these rights and freedoms could not be restored and their violations could not be redressed. The Tribunal, did however, recognize that the judgment in this case was important for the consolidation of the rule of law and, irrespective of its limited direct effect, served to safeguard the principle of citizens' trust in the State and its institutions. Recently, the Act of 20 March 2015 on the activities of the anti-communist opposition and on people victimized for political reasons which grants cash benefits and financial aid to them, was recently adopted.

In Poland, there are still many burial places of victims of communist terror between 1944–1956 yet to be discovered. Probably one of the most notorious cases is the fate of Gen. August Emil Fieldorf aka "Nil" and captain Witold Pilecki. The enforcement of harsh law was carried out by military courts, which took over the jurisdiction over civilian population accused of so-called state crimes. Military courts operated from January 1946 until the turn of July and August 1955. During this period, they issued 3468 death sentences, of which 1363 were carried out. The communist authorities did not inform families about the sentences and the burial sites. For decades communists strive to erase the memory of the soldiers of the resistance underground from the social consciousness. They tried to obliterate all the traces thereof. The existing legal acts treated the prisoners' bodies as state property and gave prison authorities the power to decide as to their burial. In most cases, the bodies of the executed prisoners

were not given to their relatives. The bodies of the people who dies during the investigation or in the course of the penalty was less harsh. Usually it was agreed to provide the bodies to the relatives. However, it was ordered that during the funeral the coffin was to remain closed to hide traces of beating.

To keep everything most secret, burials took place at night, in specially designated sections of the cemeteries. Often the victims were buried without coffins. Some reports indicate that sometimes the corpses were sprinkled or poured over with special corrosive substances to prevent any identification. The prisoners' tombs were not marked, and burials were rarely recorded in the cemetery books.

It was not until the IPN was created that exploration work was started. Only in 2011 did the IPN launch a national research project "Searching for unknown burial sites of victims of communist terror between 1944–1956." The partners of the Institute in this undertaking include the Ministry of Justice, the Council for the Protection of Memory of Fight and Martyrdom [*Rada Ochrony Pamięci Walk i Męczeństwa*], the Pomeranian Medical University of Szczecin, the Medical University of Wrocław, the Polish Genetic Database of Victims of Totalitarianism [*Polska Baza Genetyczna Ofiar Totalitaryzmów*], the Institute of Forensic Studies [*Instytut Ekspertyz Sądowych*] in Kraków. This project aims to establish the location of the burial sites of those who were executed and murdered in the Stalinist period, the exhumation and identification of the remains. The remains of several hundred murderers were recovered on the grounds of the "Ł" cemetery quarter in Powązki Cemetery in Warsaw and Białystok Detention Centre, and in many other places. So far, about 50 of them have had their identities recovered by means of DNA-based identification. The law on graves and military cemeteries in force until 2014 did not allow or even impeded effective search. As a result of the amendment to this law, it was possible to exhume and to honourably bury the victims of communist terror of 1944–1956.

After 1989, several hundred veterans' organizations were established or formed according to various criteria (nationwide, regional, gathering veterans of all formation or of a chosen period or organization) including from several hundred thousand to several dozen members. At the same time, the Veterans and Persecuted Persons' Office [Urząd do Spraw Kombatantów i Osób Represjonowanych] was established by virtue of the act of 24 January 1991 *on veterans and some people being victims of war and post-war repressions*. The basic legal acts that define the tasks carried out by the Office include: the Act of 31 May 1996 *on the financial benefit of persons deported for the purpose of forced labour and imprisoned in labour camps by the Third Reich and the Union of Soviet Socialist Republics*; the Act of 7 May 2009 *on the redress to families of victims of collective liberation protests of 1956–1989* and the Act of 20 March 2015 *on activists of the anti-communist opposition and persons repressed for political reasons*.

The Veterans and Persecuted Persons' Office is the central government administration authority in Poland the task of which is to undertake actions to provide participants in the fight for Poland's independence and victims of war and post-war repressions with the necessary aid and care and due respect and remembrance. The specific tasks of the Office include, among others, undertaking initiatives related to the cultivation and popularization of traditions of the struggle for independence and sovereignty of the Republic of Poland and the memory of

the victims of war and post-war period. The Office also issues decisions to grant the rights and benefits to veterans, activists of the anti-communist opposition, and victims of repressive totalitarian regimes, as well as the widows and widowers of them.

- People of merit fighting for state sovereignty should be honoured.
- The procedure involved in invalidation of court judgments should be simplified.

LESSONS LEARNT

- It is important to invalidate judicial decisions issued in political trials.
- The persons who were subject to repressions should receive redress for physical and mental suffering.

RECOMMENDATIONS

- The country rebuilding its democracy should first and foremost invalidate judgments given as a result of political repression.
- The persons repressed should receive immediate assistance from the state and be appropriately honoured.

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EDUCATION AND PRESERVATION OF SITES OF CONSCIENCE

RADOSŁAW PETERMAN

After 1989 very significant changes in the memory of the past in Poland have occurred. Back then the dispute had already arisen over what kind of state Poland was during the years of the communist rule, and what conduct and attitudes at that time should be considered proper or reprehensible. In the 1990s there was much discussion about the balance sheet of the People's Republic of Poland [*Polska Rzeczpospolita Ludowa, PRL*] which was joined by historians, sociologists, economists, and political commentators. Discussions were held in specialist publications as well as in the weeklies and daily journals. The following list of the most important questions surrounding the dispute stems from these debates:

Did the PRL meet the sovereignty criterion so that it could be considered one of the forms of Polish statehood?

Was the PRL a totalitarian state, or did it have such features throughout its duration, or only in the Stalinist period?

Was socio-economic progress achieved during the period of the People's Republic of Poland, or did the system of government suppress modernization?

There are various answers to these questions, both in journalistic discussions and in scientific monographs. However, one can try to extract some regularities, opinions shared almost by all.

Almost everyone agrees that until 1956 Poland's sovereignty was so limited that it resembled the status of a protectorate. This is confirmed by many published reference documents and symbolic facts, such as the results of the first post-war elections (1947) dictated by Stalin, leading the Polish army by generals seconded from the Red Army, Stalin's amendments to the draft of the 1952 Constitution of People's Republic of Poland. Almost everyone also agrees that after 1956 Poland gained significant level of autonomy. However, among the participants of the dispute, there is an outstanding opinion expressed by Professor Tomasz Strzembosz: "Personally, I think that Poland was under a specific occupation, both internal and external, from 1944 to 1990". At the same time prof. Krystyna Kersten emphasizes: "We will not understand the history of the People's Republic of Poland if we do not know the mechanism of dependence on Moscow. Today we do not know how this mechanism worked, what decisions were made first in Warsaw and only accepted (or rejected) by the headquarters, what decisions were taken in Moscow and delivered for execution to appropriate comrades in Poland". In the People's Republic of Poland there were no free elections, freedom of speech, free press or freedom to erect monuments according to the sympathies of individual political movements. Politicians and social activists noticed the potential to build on the images of the past and to create a sense of community around it. The emergence of museums, monuments, associations of history fans, films and books are the result of the renaissance of interest in the past. State institutions, political parties and social associations have their own "historical policies". They take action on the borderline of academic learning, education, propaganda, and sometimes also entertainment, to create a strong group identity.

The fundamental directions of changes in Polish memory after 1989 was determined by the following processes: gradual differentiation of memories and interpretation of the past; introducing events related to the past harm caused by Poles to representatives of other nations and minorities into the public discourse of the past and to the official memory; popularization of this type of approach to the past, in which the relationship of individuals to the past is no longer mediated by the state and nation; increased importance of reference to local and regional traditions and the change in the way they are invoked.

With such a varied perception of the recent past it is difficult to build a uniform historical policy. Under such circumstances the Institute of National Remembrance (IPN) was also created, which in addition to storing archives produced by the security authorities of the communist state and the prosecution of communist crimes by prosecutors of the Main Commission for the Investigation of Crimes against the Polish Nation, also had the task of conducting historical education and research in the history of the People's Republic of Poland.

From the very beginning of the existence of IPN, opponents of this institution often repeated the thesis that the Institute is the tool of a political environment centred around the Law and Justice Party [*Prawo i Sprawiedliwość (PiS)*], which uses it in the ongoing political struggle. This claim was untrue, because politicians representing PiS did not participate in the creation of this institution. It was created on the sole initiative of politicians stemming from the NSZZ "Solidarność" Trade Union. It was in this environment that discussions about the need to establish an institution like the German Gauck's Office were held in Poland from the early 1990s. Indeed, the Institute of National Remembrance was created in 1999 primarily thanks to the involvement of three persons: Minister Janusz Pałubicki, who wrote the bill together with a group of experts, including lawyers – prof. Witold Kulesza and prof. Andrzej Rzepliński as well as historian prof. Andrzej Paczkowski. IPN has always been a thorn in the flesh of the post-communist camp.

In 2001, post-communist politician Leszek Miller from the Democratic Left Alliance [*Sojusz Lewicy Demokratycznej, (SLD)*] stood for the election promising to liquidate the Institute. On the other hand, President Aleksander Kwaśniewski, who also came from the post-communist side, did not find the liquidation of IPN favourable to him. One of the main reasons was the participation of President A. Kwaśniewski in the run for re-election, as well as issues related to the investigation of the murder of the Jewish population of 10 July 1941.

Thus, what was done was to make cuts in the budget, which effectively suppressed the process of creating a material base of IPN, without which it was simply impossible to take over hundreds of thousands of files from the security authorities of the People's Republic of Poland. The work of the Institute in 2000–2006 took place in three divisions, which logically complemented each other and allowed scientific, legal and

moral reconciliation with the past. In 2006 the fourth division – the Lustration Office – replaced the previous lustration authority, namely the Commissioner for Public Interest [Rzecznik Interesu Publicznego].

In terms of structure, the IPN differs significantly from similar institutions operating in Germany, the Czech Republic, Slovakia, Romania, Bulgaria and Hungary and in the Baltic states. The question of whether the assignment of such a variety of tasks to a single institution was deliberate remains the subject of the dispute.

The Educational and Research Division of IPN conducts scientific research and educational and publishing activities. It organizes scientific conferences and collects reports of witnesses of history. It publishes scientific and popular books and journals. It organizes training, lectures, film shows, exhibitions and competitions for various audiences, prepares educational materials, including multimedia and internet materials, for students and teachers. For more than 15 years, more than 2,000 publications have been created, including books and magazines (“Biuletyn IPN”, “Pamięć i Sprawiedliwość”, “Pamięć.pl”, “Aparat Represji w Polsce Ludowej 1944–1989”, “CzasyPismo”). There have been almost 500 exhibitions, which have been presented around 7000 times in Poland as well as abroad. In order to popularize scientific research, more than 800 conferences were held within IPN. If one takes into account all forms of educational activities of the Institute (competitions for youngsters, lectures, teacher trainings, workshops, historical film shows accompanied by lectures, educational rallies, tutoring classes, preparatory courses for high school graduates, etc.), there have been 35,000 of them!

In addition, the Educational and Research Division of IPN has created 30 educational websites. Another area of IPN activity is research carried out in 11 national projects. Documentation projects in the form of competitions for non-governmental organizations are also being implemented.

In order to commemorate the fate of the Poles during World War II and the time of communism, IPN has created an Internet Index of Poles murdered and repressed for aiding Jews and the project “Personal losses and victims of repression under German occupation”. The education activities are equally important – these include the provision of schools with very carefully prepared – also on the basis of archive resources – educational packages, devoted to many important topics of recent history.

Conducting educational and scientific activities and restoring remembrance has allowed the truth about the period of Nazism and communism to be conveyed. For nearly half a century the truth about Polish history was distorted, and the heroes of the struggle for independence were left to oblivion.

RECOMMENDATIONS

- Preserving the memory of the vastness of the number of victims, loss and damage suffered during and after World War II.
- Commemorating patriotic traditions of struggles with occupiers, Nazism and communism.
- The obligation to prosecute crimes against peace, humanity and war crimes.
- The obligation to make sure that all those victimized by the state violating human rights have been redressed.

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TIMELINE OF THE MAJOR EVENTS

February 1, 1988	Government implements drastic rise in prices
April 25, 1988	Strikes in Bydgoszcz and Inowrocław
April 25 – May 5, 1988	Strikes in Bydgoszcz, Inowrocław, at the Nowa Huta ironworks in Kraków, and the ironworks in Stalowa Wola
April 29, 1988	Gen. Kiszczak orders preparations for martial law
May 1, 1988	Anti-government rallies in Łódź, Kraków, Płock, Poznań, Warszawa, Gdańsk, Wrocław, Bielsko-Biała, and Dąbrowa Górnicza
May 2–10, 1988	Strike in the Gdańsk shipyard
May 3, 1988	Andrzej Wielowieyski, council of Solidarność leadership, is informed by the central committee PZPR members, Józef Czyrek and Stanisław Ciosek that Gen. Jaruzelski agrees to negotiate with Lech Wałęsa
May 5, 1988	Strikes and rallies in Szczecin, Wrocław, Bełchatów, Katowice, and Gdańsk; students' rallies in Lublin, Warszawa, and Kraków
June 3, 1988	St. Ciosek suggests to Rev. A. Orszulik (speaker of the Episcopal Conference of Poland) about forming a new government with the democratic opposition
June 22, 1988	Public transport strike in Szczecin
July 11–16, 1988	M. Gorbachev visits Poland; Warsaw Pact summit
July 13, 1988	Ironworks strike in Stalowa Wola
July 21, 1988	Lech Wałęsa passes secret letter to Gen. Kiszczak agreeing to the talk's proposal
August 15 – September 3, 1988	Second wave of strikes in numerous coal mines in Upper Silesia, strikes in the port and factories in Szczecin, the ironworks in Stalowa Wola, shipyards in Gdańsk, and the Nowa Huta ironworks in Kraków; rallies in numerous towns
August 20, 1988	Committee for the country's defence (Komitet Obrony Kraju, KOK, commanding military and security body) orders the start of preparations for martial law
August 22, 1988	Televised speech of Gen. Kiszczak issuing threats against striking workers
August 25, 1988	Statement of opposition leaders promising a cessation of strike action in return for free trade unions
August 26, 1988	Gen Kiszczak, in a televised speech, proposes talks with the opposition; strike committees in Gdańsk, Jastrzębie-Zdrój, Szczecin and Stalowa Wola authorize Lech Wałęsa to negotiate with authorities
August 27–28, 1988	Meeting of the PZPR central committee
August 31, 1988	Gen. Kiszczak meets Lech Wałęsa. Wałęsa issues statement calling for an end to strike action, announces talks at the Round Table with authorities about cooperation for economic, politic, and social reforms
September 10, 1988	The Solidarność organizational committees announce support for Lech Wałęsa as the Solidarność leader for talks concerning Round Table
September 15–16, 1988	Talks in Warszawa and Magdalena to prepare the scope and character of the Round Table negotiations
September 19, 1988	Zbigniew Messner's government resigns
September 27, 1988	Mieczysław Rakowski appointed prime minister
October 3–11, 1988	Rallies in universities in Warszawa, Kraków, Wrocław, Gdańsk, Poznań, Katowice
October 19, 1988	Authorities issue objections about the participation of several opposition leaders in the Round Table talks
November 1, 1988	Rakowski decides to liquidate the shipyard "Lenin" in Gdańsk
November 11, 1988	Rallies commemorating the Independence Day of 1918

November 18–19, 1988	Meetings between Wałęsa and Gen. Kiszczak. Authorities object to restoration of the Solidarność trade union
November 30, 1988	Televised debate between Wałęsa and Alfred Miodowicz, leader of communist-controlled OPZZ trade union. Public opinion polls show 63 % support for Wałęsa
December 7, 1988	Government decree liberalizing passport laws
December 13, 1988	Massive rallies in Wrocław, Warszawa, Kraków, Lublin, Jastrzębie-Zdrój, Łódź, Płock, Poznań, Toruń, Wałbrzych on anniversary of the 1981 martial law, clash with the MO
December 18, 1988	Komitet Obywatelski przy przewodniczącym NSZZ “Solidarność”, Citizens’ Committee for “Solidarity” Chairman formed
December 23, 1988	Act for economic activity allowing free trade and private enterprises
January 1989	Talks by PZPR representatives with RC Church representatives concerning political reform
January 16–18, 1989	Meeting of the political bureau of the PZPR’s central committee; bureau agrees to legalize “Solidarność”
January 27, 1989	Meeting in Magdalenka, Gen. Kiszczak, Wałęsa, Bronisław Geremek, Tadeusz Mazowiecki discuss terms of the Round Table negotiations
January 31, 1989	Liberal banking law passed
February 6, 1989	Round Table negotiations begin
February 25, 1989	Meeting of opposition organizations protesting the Round Table in Jastrzębie-Zdrój thwarted by the SB, 120 people detained
March 15, 1989	Law concerning foreign currencies trade passed
March 17, 1989	Conflict on the electoral law project; authorities intended to pass the electoral code before agreeing on election matters at the Round Table
March–April 1989	Numerous rallies clash with riot police
April 5, 1989	Agreements by the Round Table signed
April 7, 1989	Series of acts concerning partially free elections, trade unions, and freedom of associations passed
April 13, 1989	Rada Państwa (state’s council) establishes the dates of elections
April 17, 1989	Registration of the Solidarność trade union
April 18, 1989	Gen. Kiszczak and Wałęsa form the Komitet Porozumiewawczy (connection committee) controlling the execution of the Round Table agreements
April 20, 1989	Registration for the farmers’ Solidarność trade union
April 23, 1989	Komitet Obywatelski designates Solidarność candidates to the chambers of parliament
May 1, 1989	Mass rallies by Solidarność, clash with riot police in Gdańsk and Wrocław
May 6–10, 1989	Strike in copper mines in Lower Silesia
May 8, 1989	First issue of “Gazeta Wyborcza”
May 9, 1989	First TV program of the Solidarność election broadcasting team
May 12, 1989	Gen. Jaruzelski announces presidential bid
May 16–18, 1989	Clashes with riot police in Kraków
May 17, 1989	Acts concerning freedom of conscience and the legal status of Roman Catholic Church passed
May 23–24, 1989	Rallies protesting the rejection of the registration of the independent students’ union
May 28–29, 1989	Academics strike in 28 universities
June 1, 1989	The Biuro “W” MSW (postal control unit) absorbed by Departament II MSW (counterintelligence unit)
June 2, 1989	First issue of the renewed weekly newspaper “Tygodnik Solidarność”
June 4, 1989	First round of parliamentary election, landslide victory for Solidarność; 160 seats in lower chamber and 92 in upper chamber taken by Solidarność candidates

June 12, 1989	Act concerning the 2nd round of parliamentary election passed
June 18, 1989	Second round of parliamentary elections; communist block gets 296 seats in lower chamber of parliament. Solidarność has 161 MPs and 99 senators, the PZPR, 173 MPs, the ZSL, 76 MPs, the SD, 27 MPs, and minor regime-block organizations, 23 MPs
June 30, 1989	Rally in Warszawa against Jaruzelski's presidential bid, clashes with riot police
July 19, 1989	National assembly (upper and lower chambers of parliament) elect Gen. Jaruzelski as president of the PRL (votes: 270 "pro", 233 "contra", 34 "withheld", 7 "void")
July 29, 1989	Gen. Jaruzelski resigns as 1st secretary of the central committee of communist party; Rakowski ascends
August 1989	Start of preparations for the mass weeding of the SB and PZPR documents
August 1, 1989	Rakowski resigns as prime minister
August 2, 1989	Lower chamber of parliament appoints Gen. Kiszczak as prime minister; forms the extraordinary committee for examination of dealings of ministry of internal affairs
August 7, 1989	Wałęsa proposes the ZSL and the SD to form a government with Solidarność
August 16, 1989	The SD and the ZSL exit the communist block and agree to form a government with Solidarność
August 19, 1989	Gen. Kiszczak resigns as prime minister, Tadeusz Mazowiecki appointed
August 24, 1989	Gen. Kiszczak, acting as minister of internal affairs, orders the reorganization of the security service SB
August 24, 1989	Lower chamber of parliament appoints Tadeusz Mazowiecki as prime minister
September 1, 1989	Departments III, IV, V, VI, general inspectorate of industry protection and Biuro Studiów MSW are reorganized as Departament Ochrony Konstytucyjnego Porządku Państwa, Departament Ochrony Gospodarki, and Departament Studiów i Analiz
September 1, 1989	The Wydział XI Departamentu I MSW (11th division of 1st department, unit in charge of invigilation and disintegration of Polish organizations abroad) dismissed
September 15, 1989	Biuro RKW MSW (SIGINT unit) absorbed by Biuro "A" MSW (communications HQ)
September 22, 1989	Independent students' union NZS registered
October 1, 1989	The security service academy WSO in Legionowo absorbed by the MSW's academy ASW
November 21, 1989	The Zarząd Polityczno-Wychowawczy MSW (political supervision service) dismissed
November 23, 1989	Acts abolishing the ORMO volunteer police force and office for the affairs of religious communities passed
December 1989	Military main political directorate dismissed
December 29, 1989	Parliamentary act changing the constitution; restoration of the Republic of Poland
September 1989 – January 1990	Mass weeding of documents of security services
January 23, 1990	Government issues decree concerning the seizure of PZPR assets
January 28–29, 1990	The communist party PZPR dismisses itself; anti-communist rally clash with riot police
January 31, 1990	Gen. Kiszczak orders a stop to the weeding of SB documents
January–March 1990	A series of rallies demanding the seizure of PZPR assets and the dismissal of the SB
February 15, 1990	Zarząd Ochrony Funkcjonariuszy MSW (internal control service of MSW) dismissed
March 8, 1990	Act concerning local government passed
April 6, 1990	Acts concerning the police, the ministry of internal affairs, and the state protection agency UOP, and abolishing the SB security service passed
April 11, 1990	Act abolishing the censorship office passed
April 18, 1990	The Internal military service, WSW, dismissed by order of the minister of national defence
May 10, 1990	The security service, SB, activities cease
May 21, 1990	The military political academy, WAP, dismissed

May 27, 1990	Elections of local governing bodies
July 6, 1990	Dismissal of Gen. Kiszczak as minister of internal affairs, and Gen. Florian Siwicki as minister of national defence
July 28, 1990	Act on political parties passed
July 31, 1990	The security service, SB, liquidated, the UOP is formed
September 1, 1990	The Żandarmeria Wojskowa (military police) and the Zarząd II Wywiadu i Kontrwywiadu SG WP (military intelligence and counterintelligence agency) formed
September 10, 1990	Decree abolishing the MSW academy ASW passed
September 27, 1990	Parliamentary act shortens the presidential term
October 12, 1990	Act abolishing the border protection troops, WOP, passed
November 9, 1990	Act concerning the seizure of PZPR assets passed
November 25, 1990	First round of presidential election
November 29, 1990	Act concerning passport laws passed
December 9, 1990	Second round of presidential election, Lech Wałęsa succeeds
March 22, 1991	Law concerning stock exchange passed
March 31, 1991	The ASW academy liquidated
May 10, 1991	New election code passed
May 16, 1991	The dismissal of the border protection troops, WOP; the state border protection agency Straż Graniczna formed
May 23, 1991	New law concerning trade unions passed
August 22, 1991	The military intelligence and counterintelligence agency, WSI, formed
September 28, 1991	Act concerning fiscal control (i.a. matters of fiscal intelligence) passed
October 25, 1991	Act concerning national defence, military intelligence and counterintelligence agency WSI, and military police ŻW matters, passed
May 28, 1992	Act demanding the release of information about the SB's secret collaborators holding public posts passed
June 4, 1992	Minister of internal affairs Antoni Macierewicz releases the list containing former SB records concerning members of both chambers of parliament and government members; governments demise
June 19, 1992	Constitutional court finds the 28th of May act unconstitutional
July 1992	The "Macierewicz's List" published by press
April 27, 1995	Permanent parliamentary committee for the supervision of the security services formed
December 1995	The "Olin" affair
April 11, 1997	Lustration act passed
June 18, 1998	Parliamentary resolution condemning communist totalitarianism
December 18, 1998	Act forming the Institute of National Remembrance passed
May 24, 2002	Act abolishing the UOP and forming the foreign intelligence and state security agencies (AW, ABW) passed
July 9, 2003	Act concerning the WSI passed
January 2005	The electronic inventory of SB informants and functionaries leaked from the IPN
June 9, 2006	Acts concerning the dismissal of the WSI and the forming of the military foreign intelligence and counterintelligence agencies (SWW, SKW), and the forming of the anti-corruption service CBA passed
February 16, 2007	Publication of the report on WSI activities

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